

23 April 2026

Tuatahi First Fibre Limited
Hamilton
New Zealand

By e-mail only: [REDACTED]

Tēnā koe [REDACTED]

Conditional exemption related to the Report on Quality and associated probe requirements under the Fibre Information Disclosure Determination 2021

1. In response to your letter dated 9 March 2026 on behalf of Tuatahi First Fibre Limited (**Tuatahi**),¹ the Commerce Commission (the **Commission**) grants Tuatahi a conditional exemption from specific requirements under the *Fibre Information Disclosure Determination 2012*, as amended (the **ID Determination**) for disclosure years (**DY**) 2026, 2027, and 2028.²
2. The exemption applies when Tuatahi completes the monthly Schedule 20(iv) within the Report on Quality,³ and the exemptions are from:
 - 2.1. audit assurance required by clause 2.7.1 where the existing chassis-based network architecture (**existing architecture**) is still operational; and
 - 2.2. applying the methodology required by clauses (3)(h),(i),(j), and (k) of Schedule 22 of the ID Determination (the **specified Schedule 22 methodology**) where the existing architecture replacement is complete.

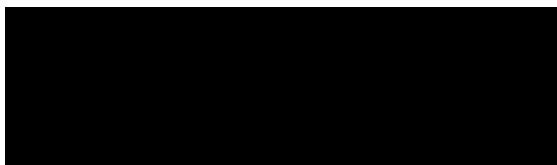
¹ Tuatahi First Fibre, *Application for Information Disclosure Exemption, Schedule 22 – methodology for calculating traffic performance*, dated 9 March 2026

² Commerce Commission, *Fibre Information Disclosure Determination 2021* [2021] (1 October 2021), as amended. The latest amendment determination can be found [here](#) on our website.

³ Tuatahi is required by clause 2.4.4(1) of the ID Determination to complete and publicly disclose a Report on Quality within Schedule 20.

3. The exemption is granted on the condition that, for each disclosure year, Tuatahi must provide an additional explanatory note for stakeholders on whether any material project issues arose in the period (such as timeline risks, planned architecture changes) and any impacted monthly reporting.
4. The legal framework, relevant context and rationale for exemption are detailed below in the Appendix.
5. A copy of this exemption response letter will be published on the Commission's website.
6. 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

Appendix: Legal Framework and Exemption Rationale

Legal framework

- A1. Under section 226 of the Telecommunications Act 2001 (the **Act**), all regulated fibre providers are subject to information disclosure (**ID**) regulation.⁴ Under the ID Determination requirements, as suppliers of fixed fibre line access services (**FFLAS**), fibre providers must publicly disclose monthly Reports on Quality that include information on network traffic performance.⁵
- A2. When completing these reports, the fibre providers must apply the methodology for calculating traffic performance under Schedule 22 of the ID Determination (ie, the Schedule 22 methodology),⁶ and must also procure an assurance report.⁷ The Schedule 22 methodology requires each regulated provider to use a reference network that provides a statistically significant sample of traffic paths for the purpose of ensuring its fibre network is correctly managed to deliver acceptable traffic performance.^{8, 9}
- A3. The following aspects of the Schedule 22 methodology set out the requirements related to the number and placement of probes (POI and OLT probes within the reference network):¹⁰
- a. “There must be a minimum of one POI reference probe for each EAS that hosts ENNI at the POI”
 - b. “The POI reference probe- (i) may be a virtual probe hosted in the EAS or an external device; and (ii) must, together with any links to the probe, be dimensioned to carry the test traffic without introducing any congestion”
 - c. “The number of OLT reference probes must be one per OLT chassis up to 96 probes, and where there are more than 96 OLT chassis, a minimum of 96 probes distributed randomly across all OLT chassis.”
 - d. “OLT reference probes are to be distributed randomly with: (i) no more than one probe per OLT chassis, and (ii) a minimum number of probes per POI according to Table 1 (this ensures a minimum number of POI probes in each POI that forms part of a POI area).”
- A4. Clause 2.10.1(1) of the ID Determination allows the Commission to, by written notice to a fibre provider, grant an exemption to that fibre provider from any requirement of the ID Determination, for a period and on such

⁴ Telecommunications (Regulated Fibre Service Providers) Regulations 2019, regulation 5

⁵ ID Determination, clause 2.4.4

⁶ ID Determination, clause 2.4.4

⁷ ID Determination, clause 2.7.1(1) and definition of “audited disclosure information”

⁸ ID Determination, Schedule 22, clause (3)(a)

⁹ ID Determination, Schedule 23, definition of “reference network”

¹⁰ ID Determination, Schedule 22, clause (3)(h), (i), (j) and (k)

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 exemption.

Exemption request

- A5. On 9 March 2026, Tuatahi requested a “permanent exemption” backdated to 1 April 2025 for the specified Schedule 22 methodology (see paragraph A3).¹¹
- A6. The key reasons for the requested exemption are:
- a. starting 1 April 2025, Tuatahi is currently undergoing a network architecture transition to replace existing [REDACTED] kit throughout its network. After considering different options and vendors, Tuatahi decided to rebuild its network in a disaggregated manner (partnering with a new vendor);
 - b. Tuatahi considers that it cannot reasonably comply with the specified Schedule 22 methodology as these probe requirements are designed for a chassis-based system. Tuatahi states that under a disaggregated network structure, it is not physically possible to apply the current ID probe placement to the chassis network components; and
 - c. to achieve equivalence for statistical traffic performance reporting under a disaggregated network structure, Tuatahi suggests that the number and placement of probes required by the Schedule 22 methodology needs adjusting.
- A7. On 25 March, Commission staff contacted Tuatahi to request further information around the feasibility of reporting traffic performance within Schedule 20(iv) during the transition period. Due to inherent complexities of operating dual environments and the progressive nature of migration activities, Tuatahi considers that although legacy network performance information is able to be disclosed, it cannot be fully assured during the impacted period.¹²

¹¹ Page 6, Tuatahi exemption application letter

¹² Email from Tuatahi staff, 2 April 2026

Exemption decisions

- A8. Under clause 2.10.1(1) of the ID Determination:
- a. the Commission **grants** Tuatahi an exemption for DY2026, DY2027 and DY2028 as set out in paragraphs 1-2 of this notice on the condition detailed in paragraph 3; and
 - b. the Commission **declines** Tuatahi's request for the same exemption for future disclosure years.

Approved exemption for disclosure years 2026, 2027 and 2028

- A9. We consider it reasonable to grant this exemption because:
- a. decentralised network architecture is consistent with the direction of technology trends, and other fibre providers may opt to take this path in future;
 - b. the Schedule 22 methodology contemplates that networks would follow a chassis structure rather than a decentralised structure. This means the methodology is not appropriate for all network designs;¹³ and
 - c. the parameters, including condition, of exemption allow the purpose of ID to continue to be met. Interested persons can track Tuatahi's performance during this transition as the exemptions require it to:
 - i. complete monthly reporting using the existing Schedule 22 methodology where the existing architecture is still in place. Although this information is not required to be audited, it must still be certified;¹⁴and
 - ii. complete monthly reporting using the existing Schedule 22 methodology, apart from clauses (3)(h),(i),(j), and (k), where the existing architecture has been replaced. This information is still subject to both audit assurance and certification.
- A10. Although we have granted the requested exemption from the specified Schedule 22 methodology requirements, we expect Tuatahi to report according to its application letter (ie, for the decentralised network architecture it deploys), which we consider is consistent with the underlying policy intent of the exempted requirements. Not specifying the exact architecture parameters within this exemption provides for flexibility in the future (if needed).

¹³ Chassis-based architecture was deployed under the original UFB arrangements between the LFCs and Crown Infrastructure Partners.

¹⁴ Enhanced tracking will also soon be available as more frequent quality disclosure reporting requirements come into force in 2026.

- A11. To ensure that the ID Determination requirements remain fit-for-purpose, we intend to consider the specified Schedule 22 methodology requirements when we next amend the ID Determination. We may also consider amending this exemption (or issuing a new one) if an ID Determination amendment does not take place before the expiry of this exemption.

Declined exemption in future disclosure years & parallel workstream

- A12. We emphasise that exemptions are intended to be only temporary responses to particular issues affecting the ability of a regulated supplier to meet their obligations under the ID Determination requirements. As such, the final year of this exemption is DY2028 to align with the completion of the network architecture replacement project.
- A13. We also note that a parallel workstream is underway to assess a potential breach of ID requirements that relates to traffic performance probe data.¹⁵ Tuatahi has indicated that this period of potential non-compliance is limited to early DY2025,¹⁶ and so there does not appear to be a direct relationship between the architecture replacement project (starting DY2026) related to this exemption and the prior potential non-compliance.
- A14. Any non-compliance will be assessed against the Commission's enforcement criteria in determining whether to take any enforcement action.¹⁷

¹⁵ On 8 April 2026, we opened a case to investigate potential breaches of ID by Tuatahi, including this probe data breach related to DY2025. An entry for this matter can be [found here](#) on the Commission's public Case Register.

¹⁶ Tuatahi First Fibre, [DY2025 disclosures](#), *Schedule 15: Voluntary Explanatory notes*, page 24

¹⁷ The Commission's enforcement criteria can be [found here](#), and Enforcement Response Guidelines can be downloaded from [this page](#).