

23 June 2020

Hirama Rogers
General Counsel
Ultrafast Fibre Limited
PO Box 27050, Garnett Avenue,
Hamilton 3257

Email: Hirama.Rogers@ultrafast.co.nz

Dear Hirmai

Response to Ultrafast Fibre's application for an exemption from 2019/20 Information Disclosure obligations

1. This letter is the Commerce Commission's (**the Commission**) response to Ultrafast Fibre Limited's (**Ultrafast Fibre**) application for an exemption from its Information Disclosure obligations for the 2019/20 disclosure year, as prescribed by the *LFC Information Disclosure Determination 2018* [2018] NZCC 10 (**the Determination**).¹
2. The Commission **declines** Ultrafast Fibre's application for a complete exemption from its Information Disclosure obligations for the 2019/20 disclosure year.
3. However, the Commission **grants** Ultrafast Fibre an extension of three months (to 28 February 2021) to provide the Commission with the required 2019/20 Information Disclosures, under clause 4.2 of the Determination. This extension is in line with other regulatory steps taken by the Commission and other bodies in response to the COVID-19 pandemic.

Background

4. Clause 2.2(1) of the Determination requires Ultrafast Fibre to disclose annually certain information to the Commission by no later than 30 November for the disclosure year ending 30 June prior.
5. However, under the provisions of clause 4.2 of the Determination, the Commission may at any time, on written application, exempt Ultrafast Fibre from any or all of the provisions of the Determination, for a period, and on such terms and conditions as the Commission specifies.
6. The purpose of information disclosure by an LFC with undertakings, such as Ultrafast Fibre, is to promote competition in telecommunications markets for the long-term

¹ Application received via email from Hirmai Rogers, Ultrafast Fibre Limited, 23 April 2020.

benefit of end-users of telecommunications services in New Zealand. We require LFCs who have given undertakings in relation to certain services to provide reliable and timely information to the Commission to enable us to record over time the costs and characteristics of LFC fibre networks.

7. The disclosure of this information is critical to inform the Commission's statutory processes and determinations, including determinations to be made by the Commission under Part 6 of the Telecommunications Act 2001. Therefore, the Commission has not granted to Ultrafast Fibre the complete exemption it has requested from its 2019/20 Information Disclosure obligations.

COVID-19 pandemic

8. The Commission is committed to doing what it can to ensure that the telecommunications sector is focused on providing essential services to New Zealanders during these unprecedented times.
9. We understand that the COVID-19 pandemic has brought additional challenges for Ultrafast Fibre's personnel, Board members and auditors involved in the preparation of its annual statutory accounts and information disclosures. Those challenges may include, amongst others, difficulties accessing information from remote locations, and restrictions on travel.
10. The completion of certain annual Information Disclosure schedules in the Determination is reliant on data from Ultrafast Fibre's audited statutory accounts. The Financial Markets Authority has granted a two-month extension for the preparation of audited statutory accounts because of disruptions caused by COVID-19.² A delay in the preparation of audited statutory accounts will reduce the time available to Ultrafast Fibre to complete its 2019/20 annual Information Disclosures by the current due date of 30 November 2020.

Exemption granted for three-month extension

11. In recognition of the above challenges the Commission grants Ultrafast Fibre a three-month extension, from 30 November 2020 to 28 February 2021, to complete its 2019/20 Information Disclosure. A three-month extension allows for the additional challenges of the Christmas and Summer holiday periods when key Ultrafast Fibre personnel, Board members and external auditors may not be readily available.
12. As such, under clause 4.2(a) of the Information Disclosure Determination, the Commission exempts Ultrafast Fibre from complying with its obligations under clauses 2.1 and 2.2 of the Determination until 28 February 2021.
13. This exemption may be revoked or further amended by the Commission at any time in accordance with clause 4.2(b) of the [Determination](#).

² Financial Markets Conduct (Financial Reporting and Other Relief—COVID-19) Exemption Notice 2020

Our expectations

14. The Commission expects Ultrafast Fibre's 2019/20 Information Disclosure to be submitted by 28 February 2021.

Next steps and getting in touch

15. Please contact Stephen Bass, Manager - Compliance and Investigations, Regulation Branch, on (04) 924 3749 or Stephen.Bass@comcom.govt.nz if you have any questions about this letter.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tristan Gilbertson', written in a cursive style.

Tristan Gilbertson

Telecommunications Commissioner

