

9 April 2025

To: Enable Networks Limited, Northpower Fibre Limited and Tuatahi First Fibre Limited as providers of fibre fixed line access services subject to information disclosure regulation under Part 6 of the Telecommunication Act 2001

Attention: [REDACTED]

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

Tēnā koutou,

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

1. The Commerce Commission (the **Commission**) is issuing a conditional exemption to Enable Networks, Northpower Fibre and Tuatahi First Fibre (the **ID-only regulated providers**) under the Fibre Information Disclosure Determination 2021, as amended (the **ID Determination**), for certain quality reporting requirements.¹ This conditional exemption expires on 31 December 2025.
2. In August 2024, we issued a conditional exemption for ID-only regulated providers from disclosing information within the Report on Quality that relied on the term “outage”. This exemption expired 31 December 2024.²
3. When this exemption was granted, it was anticipated that the issues resulting in the need for an exemption would be resolved in the Input Methodologies work we were planning. However, this resolution did not happen in the Input Methodologies work,³ so we continue to see a need for a conditional exemption for 2025.

¹ [Commerce Commission, Fibre-Information-Disclosure-Determination-2021-Consolidated-Version. Fibre Information Disclosure Determination 2021. \(1 May 2024\).](#)

² [Commerce Commission, Fibre-ID-exemption-ID-only-regulate-providers-Outage-definition-Schedule-20-reporting. \(2 August 2024\).](#)

³ [Expenditure, revenue and quality-related amendments to the Fibre input methodologies ahead of the price-quality path for Chorus' second regulatory period \(2025-2028\). Final reasons paper. \(21 November 2024\). p.g 19-24.](#)

4. We now expect these issues to be addressed in the ID amendment project currently underway.
5. The legal framework and exemption conditions are detailed in the appendix.
6. A copy of this exemption response letter will be published on the Commission's website.
7. If you have any questions regarding this matter, please contact Beseera Uddin at infrastructure.regulation@comcom.govt.nz.

Nāku iti noa, nā



Tristan Gilbertson
Telecommunications Commissioner

Appendix: Legal Framework and Exemption Conditions

Legal Framework

- A1. Under s 226 of the Telecommunications Act 2001 (the **Act**)⁴ all fibre providers are subject to information disclosure (**ID**) regulation. Clause 2.4.4(1) of the ID Determination requires ID-only regulated providers to disclose a Report on Quality, as set out in Schedule 20, no later than five months after the end of each disclosure year.⁵ Schedule 23 of the ID Determination sets out the definitions used for certain line items within this Schedule. Of these line items, only the definitions listed in paragraph A5 rely on the term “outage” in clause 1.1.4(2) of the IM Determination.
- A2. Clause 2.10.1(1) of the ID Determination allows the Commission to, by written notice to a provider, exempt the 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.

Conditional exemption issued

- A3. Using its exemption powers under clause 2.10.1(1) of the ID Determination, the Commission grants a conditional exemption to Enable Networks, Northpower Fibre and Tuatahi First Fibre. This conditional exemption relates to the ID requirements within the Report on Quality which rely on the definition of “outage” in the IM Determination.
- A4. This conditional exemption specifically applies to:
 - A4.1 the information requirements outlined in paragraph A5, on the condition set out in paragraph A6; and
 - A4.2 the monthly Report on Quality requirement for disclosure year 2025 and the months of disclosure year 2026 up to and including the month of December 2025. Figure 1 below demonstrates the exemption period for the ID-only regulated providers.

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

⁵ Commerce Commission, Fibre-Information-Disclosure-Amendment- Determination-28-July-2022. ID Determination Clauses –2.3.3 and 2.4.4. Page 33 and 37.

Figure 1: Timeline visualisation of 2025 exemption period for ID-only regulated providers

		2023												2024												2025											
		J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
ID exemption coverage	Northpower Fibre				DY2024								DY2025				DY 2025				DY 2026																
	Tuatahi First Fibre				DY2024								DY2025				DY 2025				DY 2026																
	Enable Networks						DY2024								DY2025				DY2025				DY 2026														

- A5. This exemption applies to the completion and public disclosure of the following information requirements (line items) in the Report on Quality:

Line item	Report on Quality: Schedule 20
faults per 100 connections	Schedule 20(ii): Faults
number of faults	Schedule 20(ii): Faults
percentage of regulated provider faults not restored within 2 calendar days	Schedule 20(ii): Faults
percentage of regulated provider faults that met expected restoration time	Schedule 20(ii): Faults
average unplanned downtime	Schedule 20(iii): Availability
average unplanned downtime excluding force majeure events	Schedule 20(iii): Availability
percentage of notified unplanned outages	Schedule 20(iii): Availability
planned downtime	Schedule 20(iii): Availability
planned outage	Schedule 20(iii): Availability
unplanned downtime	Schedule 20(iii): Availability
unplanned downtime attributable to force majeure events,	20(iii): Availability

- A6. This exemption is provided on the condition that the ID-only regulated providers must, for the purpose of clause 2.4.4(1) of the ID Determination, apply the following definition for “outage” when calculating and completing information required for a Report on Quality:^{6,7}

outage means a cessation in the supply of **ID FFLAS** that is either:

- (i) identified by the **ID-only regulated provider** based on its systems that indicate a cessation in supply; or
- (ii) in respect of which the **ID-only regulated provider** has received a notification from an **RSP** that:
 - (a) confirms a cessation in the supply of **ID FFLAS** to an **end-user**; and
 - (b) includes sufficient information for the **ID-only regulated provider** to identify and address the cessation in supply

- A7. This exemption may be revoked or amended by the Commission at any time in accordance with clause 2.10.1(2) of the ID Determination.

⁶ “ID FFLAS”, “end-user”, and “regulated provider” have the meanings set out in the ID Determination, which use the corresponding definitions set out in the IM Determination. See clause 1.1.4(2) of *Fibre Input Methodologies Determination 2020* [2020] NZCC 21, as amended.