



Securities Act (BBI Networks (New Zealand) Limited) Exemption Notice 2006

Pursuant to the Securities Act 1978, the Securities Commission gives the following notice (to which is appended a statement of reasons of the Securities Commission).

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Notice

- 1 Title**
This notice is the Securities Act (BBI Networks (New Zealand) Limited) Exemption Notice 2006.
- 2 Commencement**
This notice comes into force on the day after the date of its notification in the *Gazette*.
- 3 Expiry**
This notice expires on the close of 31 March 2007.

4 Interpretation

- (1) In this notice, unless the context otherwise requires,—

Act means the Securities Act 1978

bonds means the first ranking, secured, interest bearing debt securities of the company that are to be issued under a trust deed dated on or about 13 October 2006

Bridge Debenture Subscription Agreement means the NZ\$150 million bridge debenture subscription agreement dated 30 November 2005 entered into between—

- (a) the company, as borrower; and
- (b) ANZ National Bank Limited, as subscriber; and
- (c) J. P. Morgan Trust Australia Limited, as security trustee

company means BBI Networks (New Zealand) Limited

excluded provisions means the provisions specified in the second column of the Schedule

Facility Agreement means the A\$300 million facility agreement dated 5 December 2005 entered into between—

- (a) the company and BBI Finance Pty Limited, as borrowers; and
- (b) Australia and New Zealand Banking Group, as corporate facility agent; and
- (c) J. P. Morgan Trust Australia Limited, as security trustee; and
- (d) certain banks and financial institutions, as financiers; and
- (e) certain parties, as initial hedge counterparties

Regulations means the Securities Regulations 1983

specified debt securities means bonds to be issued by the company

specified material contracts means the contracts referred to in the Schedule

Term Debenture Subscription Agreement means the NZ\$125 million term debenture subscription agreement dated 30 November 2005 entered into between—

- (a) the company, as borrower; and
- (b) J. P. Morgan Trust Australia Limited, as security trustee; and
- (c) the parties listed in Schedule 1 of that agreement, as subscribers.

- (2) Any term or expression that is defined in the Act or the Regulations and used, but not defined, in this notice has the same meaning as in the Act or the Regulations.

5 Exemptions from regulation 7(1)(a) of Regulations and clause 33(b) of Schedule 2 of Regulations

The company and every person acting on its behalf are exempted from—

- (a) regulation 7(1)(a) of the Regulations in respect of any specified debt securities in so far as that paragraph requires a prospectus that contains the offer of the specified debt securities to have endorsed on it, or attached to it, or to be accompanied by, a copy of the specified material contracts; and
- (b) clause 33(b) of Schedule 2 of the Regulations in respect of any specified debt securities in so far as that paragraph applies to any of the specified material contracts.

6 Conditions of exemptions

The exemptions in clause 5 are subject to the conditions that the prospectus that contains the offer of the specified debt securities that is delivered to the Registrar of Companies for registration under the Act—

- (a) has endorsed on it, or attached to it, or is accompanied by, a copy of the specified material contracts (excluding the excluded provisions); and
- (b) contains a statement that certain provisions of the specified material contracts have not been reproduced in the copies filed with the Registrar of Companies; and
- (c) contains a statement of reasons why those provisions have not been reproduced; and
- (d) contains a statement of the general nature of those provisions; and
- (e) contains a prominent statement to the effect that the directors of the company warrant to investors that non-disclosure of the excluded provisions does not make the prospectus or investment statement misleading in any material particular by failing to refer or give proper emphasis to any adverse circumstances; and
- (f) states the times and places in New Zealand where a copy of the specified material contracts (excluding the

excluded provisions) may be inspected without fee by any person who requests to do so during the currency of the prospectus.

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Schedule Specified material contracts

Contract	Excluded provisions
Bridge Debenture Subscription Agreement	The entirety of clause 7.1 excluding the heading
Facility Agreement	The entirety of clause 8.1(a) The entirety of clause 12.1(a) excluding the heading The entirety of clause 12.2(a) excluding the heading
Term Debenture Subscription Agreement	The entirety of clause 8.1 excluding the heading The entirety of clause 9.1(a)

Dated at Wellington this 10th day of October 2006.

The Common Seal of the Securities Commission was affixed in the presence of:

[Seal]

J Diplock,
Chairperson.

Statement of reasons

This notice comes into force on the day after the date of its notification in the *Gazette* and expires on 31 March 2007.

The notice exempts BBI Networks (New Zealand) Limited from certain provisions of the Securities Regulations 1983, subject to conditions, in the case of an offer of certain bonds. The effect of the exemptions is that the company can exclude commercially sensitive

information from certain material contracts that will be attached to the registered prospectus.

The Securities Commission considers that the exemptions from regulation 7(1)(a) of the Securities Regulations 1983 and clause 33(b) of Schedule 2 of those regulations are appropriate for the following reasons:

- the exemptions meet the criteria stated in the Securities Commission's Exemption Policy Note for "Applications to Exclude Commercially Sensitive Information from Material Contracts". (The Exemption Policy Note can be viewed on the Commission's website at www.sec-com.govt.nz/notices/exemption-policy.shtml);
- the detriment to the commercial interests of BBI Networks (New Zealand) Limited by the disclosure of the excluded provisions would outweigh any benefit to prospective investors from the disclosure;
- directors of the company must warrant that the non-disclosure of the excluded provisions does not make the relevant prospectus misleading in any material particular by a failure to refer, or give proper emphasis, to any adverse circumstances;
- the prospectus must state that information has been deleted from the contracts in question, the reasons why that information has been deleted, and the general nature of the material information that has been deleted.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 12 October 2006.

This notice is administered by the Securities Commission.
