

Telecommunications (Information Disclosure) Regulations 1999

(SR 1999/383)

Telecommunications (Information Disclosure) Regulations 1999: revoked, on 20 December 2001, pursuant to section 159(1) of the Telecommunications Act 2001 (2001 No 103).

PURSUANT to section 5C of the Telecommunications Act 1987, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

These regulations are administered in the Ministry of Commerce.

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- 1 Title and commencement**
- (1) These regulations may be cited as the Telecommunications (Information Disclosure) Regulations 1999.
- (2) These regulations come into force on 1 January 2000.

Part 1 Preliminary provisions

- 2 Interpretation**
- (1) In these regulations, unless the context otherwise requires,—
- the Act** means the Telecommunications Act 1987
- Contract** means a contract for the supply of goods or services, or both, whether or not the contract, or any part of the contract, is in writing; and, for the avoidance of doubt, includes—
- (a) A contract under which goods or services, or both, are being supplied, although some or all of the terms and conditions in relation to the supply of those goods or services have not been settled; and
- (b) Any operating agreement, side letter, or documentation that adjusts, amends, directly relates to, or materially influences the terms and conditions of that contract:

Corporation means Telecom Corporation of New Zealand Limited; and includes any subsidiary (within the meaning of section 2(1) of the Financial Reporting Act 1993) of that company

Depreciation has the same meaning as in generally accepted accounting practice

Directory services means any services provided by the Corporation to support the publication or provision of information on local telephone numbers in New Zealand to telephone service users

Discount means a reduction in the price charged for the supply of a prescribed service under the standard contract for the supply of that service; and includes, in the case where a prescribed service is supplied on terms and conditions that vary from the standard contract terms and conditions of supply for that service, the difference between—

- (a) The price of supplying the service on the standard terms and conditions; and
- (b) The price of supplying the service on the standard terms and conditions as varied:

Entity includes—

- (a) Any person within the meaning of the Interpretation Act 1999;
- (b) Any subsidiary of any such person;
- (c) Any part or division of any such person:

Financial statements means those statements prepared by the Corporation that communicate information about the Corporation's financial performance, financial position, and cash flows; and includes—

- (a) A statement of financial position; and
- (b) A statement of financial performance; and
- (c) A statement of cash flows; and
- (d) A statement of movements in equity; and
- (e) The financial performance measures required by regulation 3(5); and
- (f) Explanatory notes to the statements referred to in paragraphs (a) to (e), including information relating to transactions between the local loop business and

other telecommunications businesses as required by regulation 4; and

- (g) A statement of accounting policies:

Financial period means any financial year or first half-financial year in respect of which the Corporation is required by these regulations to publicly disclose financial statements

Financial year means the financial year for the time being of the Corporation

Fixed assets—

- (a) Means—

- (i) Those telecommunications assets of the Corporation that are tangible in nature and have an expected useful life of more than 1 year; and
- (ii) The capitalised value of any telecommunications assets of the Corporation that are subject to a finance lease; and
- (iii) Any capital works in progress; but

- (b) Does not include—

- (i) Any intangible assets; or
- (ii) Any security; or
- (iii) Cash:

Generally accepted accounting practice has the same meaning as in section 3 of the Financial Reporting Act 1993

Independent auditor, in relation to any information to which regulation 14 applies, means a person who—

- (a) Is qualified for appointment as auditor of a company under the Companies Act 1993; and
- (b) Has no relationship with, or interest in, the person that is required, by any provision of these regulations, to publicly disclose that information, being a relationship or interest that is likely to involve that first-mentioned person in a conflict of interest:

Interconnection agreement means any contract relating to interconnection to a public switched telephone network owned and operated by the Corporation in New Zealand for the purposes of operating any other public switched telephone network in New Zealand, whether or not owned or operated by the Corporation

Kiwi Share Obligations means the obligations contained in Schedule 1 to the constitution of the Corporation or any schedule made in substitution of that Schedule; and includes any agreed alteration of or consent to an alteration of those obligations

Leased circuit means the whole or part of the capacity of a telecommunication link, or, as the case may be, a part of the capacity in 2 or more telecommunication links where that capacity is connected, provided by the Corporation and that is dedicated, pursuant to an agreement with the Corporation, for the use of a particular person

List of Charges means the standard publication produced by the Corporation that contains the terms and conditions for all of the Corporation's standard telecommunications services

Local loop access network means—

- (a) All lines, including cables and aerial lines, between a residential or business telecommunications services users' distribution point on the property boundary (or, in the case of commercial buildings, the building distribution frames) and the local telephone exchange distribution frame or optical fibre distribution frame; and
- (b) All hardware and electronic systems associated with those cables and lines, such as poles, cabinets, ducts, manholes, multi-access-radio, or other flexibility point or link; and
- (c) All hardware and electronic systems associated with the provision of residential or business telephone service to users connected directly to a local telephone exchange by a fixed wireless link, but excluding any associated customer premises equipment:

Local loop business means the provision, support, and maintenance, including the necessary billing, sales, marketing, fault reporting, and repair, by the Corporation of the following telecommunications services in New Zealand

- (a) Telecommunications services that are provided by any or all of the local loop access network or local telephone exchanges or local loop inter-exchange links and any associated supporting assets (**the local telephone service**); and

- (b) Telecommunications services that are provided by assets used to support interconnection with any other entity and any or all of the local loop access network or local telephone exchanges or local loop inter-exchange links and any associated supporting assets (**interconnection**); and
- (c) Telecommunications value added services that are either primarily supported by local telephone exchanges or are provided as an integral component of telephone service, and for which there are no widely available competitive alternatives, including directory services:

Local loop inter-exchange link means that part or parts of a telephone network, including signalling equipment, used to connect voice frequency calls between local telephone exchanges or between a local telephone exchange and any exchange used to connect calls to any other parts of the public switched telephone network

Local telephone exchange means that part or parts of a telephone exchange, including the main distribution frame or optical distribution frame (but excluding local loop inter-exchange links), used to switch voice frequency telephone calls—

- (a) Between telephone service users located in the same local calling area; or
- (b) From (or to) telephone service users in a local calling area to (or from) an exchange in the same area used to connect calls to (or from) any other part of a public switched telephone network; or
- (c) Assets used to support telecommunications value added services that are either primarily supported by local telephone exchanges or are provided as an integral component of telephone service, and for which there are no widely available competitive alternatives, including directory services:

Other telecommunications businesses means all goods and services supplied by the Corporation other than the local loop business

Prescribed services means—

- (a) Access to the public switched telephone network operated by the Corporation; and
- (b) Interconnection to a public switched telephone network owned and operated by the Corporation for the purposes of operating any other public switched telephone network, whether or not owned or operated by the Corporation; and
- (c) Leased circuits; and
- (d) Telecommunication links that enable the making of—
 - (i) Telephone calls within the Corporation's free calling area; and
 - (ii) Telephone calls to places outside the Corporation's free calling area, including national toll calls and national freephone calls, but excluding international toll calls:

Prescribed terms and conditions, in relation to a contract for the provision of prescribed services, means those terms and conditions of the contract that—

- (a) Describe the service to be provided under the contract; or
- (b) Determine, or provide for the determination of, the quantity or amount of the service to be provided under the contract; or
- (c) Specify, determine, or provide for the determination of,—
 - (i) The price at which those services are to be provided;
 - (ii) The timing of payment for those services:

Public switched telephone network means a dial-up telephone system, including the switching of data or other non-telephone services over a path suitable for voice frequency telephone communication

Publicly disclose, in relation to any information required by these regulations to be made available, means to make that information available in the following ways

- (a) By making copies of that information available on request at the Corporation's head office; and

- (b) By making that information available on the Internet; and
- (c) By publishing in the *Gazette* a notice—
 - (i) Advising that that information is available in the ways set out in paragraphs (a) and (b); and
 - (ii) Providing the Uniform Resource Locator of the Internet site where that information can be found;—

and the term **public disclosure** has a corresponding meaning
Revaluations, in relation to tangible or intangible assets that are revalued in a financial period, means the amount shown, in the financial statements for that period, as the movement in asset revaluation reserve

Secretary*[Revoked]*

Secretary: this definition was repealed, as from 7 September 2000, by section 8(2) Ministry of Economic Development Act 2000 (2000 No 28).

[Revoked]

Security has the same meaning as in section 2(1) of the Securities Act 1978

Standard contract means a contract that contains the terms and conditions on which a prescribed service is most usually offered for supply

Subvention payment means the amount paid by 1 entity to another within the same taxation group, as referred to in sections IA 6 and IC 1 to IC 6 of the Income Tax Act 2007.

- (2) A reference in these regulations to a numbered form is a reference to a form so numbered in Schedule 3.
- (3) Where any expression used in these regulations is not defined in these regulations but is defined in the Act, that expression, unless the context otherwise requires, has, in these regulations, the meaning given to it by the Act.

Regulation 2(1) **subvention payment**: amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subvention payment: this definition was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

Part 2

Financial statement disclosure

3 Financial statement disclosure

- (1) The Corporation must publicly disclose annual and half-yearly financial statements in respect of the Corporation's local loop business in New Zealand and other telecommunications businesses, as those businesses are defined in accordance with the avoidable cost allocation methodology set out in Part 2 of Schedule 1.
- (2) The annual financial statements must be prepared within 3 months after the end of each financial year, for that financial year.
- (3) The half-yearly financial statements must be prepared within 3 months after the first half of each financial year, for that half of the financial year.
- (4) Financial statements (other than the financial performance measures) must—
 - (a) Be prepared in accordance with generally accepted accounting practice; and
 - (b) Separately identify with a monetary amount—
 - (i) The items listed in Part 3 of Schedule 1, other than items identified in that Part as not requiring separate identification with a monetary amount; and
 - (ii) Any items not included in Part 3 of Schedule 1 that comprise a material proportion of the cost, revenue, asset, or liability category in which they are classified; and
 - (c) Contain all items of such a size, nature, or incidence that their disclosure is necessary for an understanding of the businesses; and
 - (d) Be accompanied, in the case of financial statements relating to the 2000/2001 financial periods and later periods, by such information relating to financial statements as has previously been publicly disclosed in respect of the previous corresponding financial period, in a format that enables the most accurate available com-

- parison between the current disclosure and the earlier disclosure; and
- (e) Reconcile with the accounts of the Corporation; and
 - (f) Be prepared in accordance with the same accounting policies as the accounts of the Corporation.
- (5) Financial performance measures must—
- (a) Be compiled in accordance with the requirements of regulation 5; and
 - (b) Contain the information set out in Part 4 of Schedule 1.
- (6) The first annual financial statements publicly disclosed by the Corporation under subclause (1) must be for the 6-month period from 1 January 2000 to 30 June 2000, but all subsequent annual disclosures under that subclause must be for the full financial year of the Corporation.

4 Disclosure of information relating to transactions between local loop and other telecommunications businesses

- (1) The notes to the financial statements required to be publicly disclosed under regulation 3 must include the following information relating to material transactions between the local loop business and the other telecommunications businesses:
- (a) The identity of each entity and the nature of the relationship between the entities involved in the transactions; and
 - (b) A detailed description of the good or service supplied by each entity in those transactions; and
 - (c) A detailed description of the good or service received by each entity in the course of those transactions; and
 - (d) The total price, unit price, quantity, and recorded revenue and expenditure amounts, as appropriate, of the transactions expressed in dollar terms in respect of each type of good or service; and
 - (e) The period during which the good or service was supplied or received, as the case may be; and
 - (f) The terms and frequency of payment for each good or service supplied; and
 - (g) The total outstanding balances arising from all such transactions for each entity together with details of the terms of settlement for those balances.

- (2) For the avoidance of doubt, the transactions referred to in sub-clause (1) include—
 - (a) Transactions relating to interconnection; and
 - (b) Transactions that take place at nil or other (including nominal) value.

5 Compilation of financial performance measures

- (1) This regulation applies in respect of calculations made for the purposes of determining, in respect of any financial period, any of the financial performance measures required to be publicly disclosed under regulation 3.
- (2) Calculations to which this regulation applies must—
 - (a) Be made using all relevant information included in the financial statements (other than financial performance measures) prepared in respect of the relevant financial period; and
 - (b) Be made so as to adjust for—
 - (i) The effect of any subvention payment; and
 - (ii) The effect of any revaluations; and
 - (iii) Where any revaluation of intangible assets has occurred, the average total intangible assets; and
 - (c) Be accompanied, in the case of financial performance measures for the 2000/2001 financial periods and later periods, by such information relating to financial performance measures as has previously been publicly disclosed in respect of the previous corresponding financial period, in a format that enables the most accurate available comparison between the current disclosure and the earlier disclosure; and
 - (d) Be accompanied by the form set out in Part 5 of Schedule 1.
- (3) In respect of the financial performance measures for the period from 1 January 2000 to 30 June 2000, that form must be completed using closing balances as at 30 June 2000 where average figures are required.

6 Depreciation and loss of service potential

- (1) If the financial statements referred to in regulation 5(2)(a) have been so prepared that, in respect of any local loop business

asset or other telecommunications businesses asset (being a fixed asset), both of the following items, namely—

- (a) Depreciation on the asset; and
- (b) Expenditure that has the effect of maintaining the service potential of the asset,—

have been accounted for as an expense, then, subject to subclause (2), the information derived from those financial statements for the purposes of this regulation must be derived on the basis that not more than 1 of those expense items is so accounted for in respect of that asset.

- (2) If, in respect of any fixed asset to which subclause (1) applies, there has been a loss of service potential during the relevant financial year, nothing in that subclause applies in respect of any depreciation on that asset to the extent that the depreciation is equal to the extent of that loss.

Part 3

Prescribed services disclosure

7 Disclosure of information about prescribed services

- (1) Before 1 April 2000, the Corporation must publicly disclose, and include in the *List of Charges*, the prescribed terms and conditions of the standard contract for every prescribed service offered by the Corporation, including prescribed services offered by a subsidiary of the Corporation to another subsidiary of the Corporation.
- (2) Within 30 days after the end of each quarter ending on the close of 31 March, 30 June, 30 September, and 31 December in each year, the Corporation must publicly disclose the following information relating to discounts:
 - (a) The principles or guidelines applied by the Corporation in determining whether or not to allow a discount, and the maximum discount available to a customer; and
 - (b) If a discount is allowed for the supply of a prescribed service of 10% or more of the standard contract price for the supply of that prescribed service,—
 - (i) The principles or guidelines applied by the Corporation in allowing that discount; and
 - (ii) The actual discount allowed; and

- (iii) If the discount represents a variation in the terms and conditions of the standard contract for the prescribed service, those terms and conditions as varied; and
 - (c) If, pursuant to a contract with any person, a number of telecommunications services are being supplied to that person, and—
 - (i) The services supplied include a prescribed service and other services; and
 - (ii) A discount of 10% or more is applied in relation to the aggregate price of all the services,—
the information to be publicly disclosed under this subclause must also state that those services are being supplied at a discount, the amount of the discount, and that the discount applied to services other than prescribed services.
- (3) The Corporation is not required under this regulation to publicly disclose information relating to the supply of a prescribed service to an employee of the Corporation or of a subsidiary of the Corporation if the service is supplied as part of the terms and conditions of that person's employment.

8 Disclosure of information about interconnection agreements

Within 15 working days of entering into an interconnection agreement, the Corporation must publicly disclose the full text of that contract, excluding details relating to the location of physical links for service delivery between networks.

9 Contract modification disclosure

- (1) The Corporation must publicly disclose any modifications made to any interconnection agreement or to any prescribed terms and conditions of any standard contract that is publicly disclosed under regulation 7(1).
- (2) The public disclosure requirement applies not later than 1 month after those modifications take effect.
- (3) The disclosure must identify in each case the particular interconnection agreement or standard contract that has been modified.

10 Disclosure of losses attributable to Kiwi Share Obligations

- (1) At the same time the Corporation publicly discloses the financial statements required by regulation 3, the Corporation must publicly disclose the following information with respect to its Kiwi Share Obligations:
- (a) The losses incurred in complying with those obligations, including—
 - (i) The amount of the losses attributable to each component of the ordinary residential telephone service to which the Kiwi Share Obligations apply; and
 - (ii) For each of those components, a summary of the calculations made in determining the amount of the losses; and
 - (iii) For each of those components, the amount of the losses attributable to individual customer groups; and
 - (b) The means by which any losses from the performance of Kiwi Share Obligations are recovered, including—
 - (i) The sources from which the Corporation recovered those losses; and
 - (ii) The amounts that the Corporation recovered from each of those sources; and
 - (iii) The components of any charges from which the Corporation recovered those losses.
- (2) In calculating the losses incurred from the performance of the Kiwi Share Obligations, the Corporation must follow the methodology specified in Schedule 2.

Part 4**Miscellaneous provisions****11 Disclosure of methodologies**

- (1) At the same time the Corporation publicly discloses the financial statements required under regulation 3, the Corporation must publicly disclose the full methodologies used to—
- (a) Prepare the financial statements required by regulation 3; and

- (b) Calculate the losses from the Kiwi Share Obligations referred to in regulation 10.
- (2) The methodologies publicly disclosed under subclause (1) must include—
 - (a) A description of any models used; and
 - (b) All assumptions and estimates necessary to provide assurance as to the robustness of the calculations made in preparing the financial statements and calculating the losses; and
 - (c) A description of all customer groups used.
- (3) Where the Corporation has made a change to a methodology, the Corporation must publicly disclose the reasons for that change and the financial impact of that change.
- (4) Where the Corporation has adopted a different methodology from the methodology previously publicly disclosed under subclause (1), the Corporation must publicly disclose the reasons for that different methodology and the financial impact of that different methodology.

12 Retention of information

- (1) With respect to information that the Corporation is required to publicly disclose, the Corporation must comply with the following rules:
 - (a) Information relating to any contract must be publicly disclosed for as long as that contract remains in force:
 - (b) Information that is publicly disclosed under regulation 3 or regulation 10 must be publicly disclosed for a period of at least 3 years:
 - (c) Information relating to any methodology that is publicly disclosed under regulation 11 must be publicly disclosed for a period of at least 1 year or until that methodology is no longer used by the Corporation, whichever is the longer:
 - (d) Data, calculation models, and associated documentation used to prepare any information that the Corporation must publicly disclose must be retained by the Corporation for a period of at least 7 years.

- (2) A period runs from the time the information is first required to be publicly disclosed by the Corporation in accordance with these regulations.

13 Form of statutory declaration

For the purposes of section 5D of the Act,—

- (a) All statements, reports, agreements, particulars, and information supplied to the chief executive of the Ministry of Economic Development under subsection (1)(b) or (c) of that section must be verified by statutory declaration in form 1:
- (b) The statutory declaration referred to in paragraph (a) of this clause must be made by a director or officer of the Corporation.

Paragraph (a) was amended, as from 7 September 2000, by section 13 Ministry of Economic Development Act 2000 (2000 No 28) by substituting the words “chief executive of the Ministry of Economic Development” for the word “Secretary”.

14 Information required to be certified by auditor

- (1) At the same time the Corporation publicly discloses the annual financial statements required under regulation 3(1), an independent auditor must provide a signed auditor’s report in form 2 with respect to those statements.
- (2) The auditor must give a qualified audit report if, in the auditor’s opinion, the financial statements—
- (a) Fail to comply with these regulations or generally accepted accounting practice; or
- (b) Fail to give a true and fair view of the matters to which they relate (having regard to any information or explanations that may have been added by the directors of the Corporation under section 11(2) or section 14(2) of the Financial Reporting Act 1993),—
- and the qualified audit report must explain the respects in which the statements so fail.
- (3) An independent auditor must certify, by certificate in form 3, the losses attributable to the Kiwi Share Obligations required by regulation 10 to be publicly disclosed, within 3 months after the end of each financial year.

15 Consequential revocations

The following regulations are consequentially revoked:

- (a) The Telecommunications (Disclosure) Regulations 1990 (SR 1990/120);
- (b) The Telecommunications (Disclosure) Regulations 1990, Amendment No 1 (SR 1993/380).

16 Savings

- (1) Any matter that was required to be published or made available under the Telecommunications (Disclosure) Regulations 1990 before the commencement of these regulations must be published or made available as if those regulations had not been revoked.
- (2) The Telecommunications (Disclosure) Regulations 1990 continue to apply to information published or made available under those regulations as if they had not been revoked.

Schedule 1
Financial statements

Reg 3

1

Interpretation

In this schedule, unless the context otherwise requires,—

Assets utilised to provide other telecommunications businesses services means all assets used to provide telecommunications services (such as cellular service, national calls, data services); but excludes—

- (a) The local loop access network; and
- (b) Local telephone exchanges; and
- (c) Local loop inter-exchange links; and
- (d) Any assets used to support interconnection of the local loop business with any other entity; and
- (e) Any associated supporting assets:

Average total funds employed, in relation to a financial period, means the average of the following amounts

- (a) The amount calculated by adding, to the amount of net working capital as shown in the statement of financial position at

1—*continued*

the end of the previous financial period, the value of the fixed assets as shown in the statement of financial position at the end of the previous financial period, being the values that were included in calculating the value of average total funds employed at the end of the previous financial period:

- (b) The amount calculated by adding, to the amount of net working capital as shown in the statement of financial position at the end of that financial period, the value of the fixed assets as shown in the statement of financial position at the end of that period:

Current assets, in relation to any financial period, means—

- (a) All cash in hand at the end of that financial period, as shown in the statement of financial position for that period; and
- (b) All assets that—
 - (i) Are shown in the statement of financial position; and
 - (ii) May reasonably be expected to be converted to cash, consumed, sold, or otherwise disposed of, within 1 year of the balance date for that financial period:

Current liabilities, in relation to any financial period, means those operational obligations of a business that are reasonably expected to be paid or satisfied within 1 year of the balance date for that financial period as shown in the statement of financial position

Earnings before interest and tax, in relation to any financial period and as presented in the statement of financial performance, means operating revenue minus—

- (a) Operating expenses (excluding interest expense and tax expense); and
- (b) Subvention payments:

Equity means the residual interest in the assets of the entity after the deduction of its liabilities

Expenditure on interconnection means expenditure made by either the local loop business or the other telecommunications businesses for interconnection to any other entity's network

Institute Handbook means the most recently updated version of the document entitled *Institute of Chartered Accountants of New Zealand—Members' Handbook*, issued by the Institute of Chartered Accountants of New Zealand

1—*continued*

Net profit after tax means the amount as shown in the statement of financial performance for a financial period calculated in accordance with the following formula

$$a - b - c$$

where—

- a is earnings before interest and tax:
- b is interest expense:
- c is income tax:

Net working capital means current assets less current liabilities as shown in the statement of financial position

Revenue for interconnection means revenue received by either the local loop business or the other telecommunications businesses from other entities for providing interconnection to the local loop business or other telecommunications businesses

Transfer payments means any transaction between the local loop business and the other telecommunications businesses required to be publicly disclosed under regulation 4.

2

Reg 3(1)

1

Avoidable cost allocation methodology

Financial statements (other than financial performance measures) must be prepared for the local loop business and the other telecommunications businesses, as those whose businesses are defined by the following methodology:

- (a) Treat the local loop business as a **stand-alone** business (an independent and unrelated entity providing the services set out in the definition of local loop business); and
- (b) Make an assessment of the expenses, revenues, assets, and liabilities (**items**) that would be avoided by the Corporation if it did not operate its **incremental** other telecommunications businesses; and
- (c) Allocate the items that would not be avoided to the local loop business; and

2—continued

- (d) Allocate the items that would be avoided to the other telecommunications businesses.

2

For the purposes of clause 1(a) and (b), items must be allocated to the local loop business and other telecommunications businesses in such a way that—

- (a) Those items that are directly attributable to one of the local loop business or other telecommunications businesses, by a verifiable cause and effect relationship, are allocated to that business; and
- (b) Those items that are shared by the local loop business and other telecommunications businesses are allocated between those businesses by—
- (i) Direct allocation of any components of these items that are directly attributable to one of the businesses; and
- (ii) For any components that are not directly attributable,—
- (A) Assessing the proportions of these components that are avoidable and non-avoidable; and
- (B) Allocating these components amongst the businesses on the basis of those proportions.

3

The Corporation must consistently apply the avoidable cost allocation methodology for items in the statements of financial performance and financial position to the same items for determining disclosure in the statements of cash flows and movements in equity.

4

The Corporation must apply the avoidable cost allocation methodology on a consistent basis within and between financial periods.

3

Reg 3(4)(b)

1 Specific allocations and disclosures

The Corporation must allocate the specified items only to the local loop business (column A) or other telecommunications businesses (column B) if there is a tick in the relevant column. Where only 1 column is ticked, the item is to be entirely allocated to that business.

2 Items that are shared by the local loop business and other telecommunications businesses are indicated by ticks in both column A and column B and must be allocated in accordance with clause 2 of Part 2.

3 Where 2 ticks appear in a column, the monetary amount for the specified item need not be separately identified. In the case of the other telecommunications businesses, these items may be aggregated with another appropriate item or items with 2 ticks for that business, and the combined total disclosed. In the case of the local loop business, these items may be aggregated with the “Any other expenses” item.

Table 1—Specific Allocations and Disclosures

3—continued

Table 1—continued

Item	DISCLOSURES	
	Column A Local Loop Business	Column B Other Telecommunications Businesses
<i>Current assets:</i>		
Bank, cash, short-term investments	✓	✓
Trade debtors	✓	✓
Other debtors	✓	✓
Inventory/stock	✓	✓
Work in progress	✓	✓
Prepayments	✓	✓
Other	✓	✓
Total current assets		
<i>Fixed assets:</i>		
Local loop access network	✓	
Local telephone exchanges	✓	
Assets to support directory services	✓	
Local inter-exchange links	✓	
Assets utilised in delivery of other telecommunications services		✓
Customer billing and information system assets	✓	✓
Customer premises equipment		✓
Capital works in progress	✓	✓
Motor vehicles	✓	✓
Office equipment	✓	✓
Land	✓	✓
Buildings	✓	✓
Other	✓	✓
Total fixed assets	✓	✓
Long-term investments		✓
Total tangible assets	✓	✓
<i>Intangible assets:</i>		
Goodwill	✓	✓
Other intangible assets (eg, brands, patents)	✓	✓
Total intangible assets	✓	✓
Total assets	✓	✓

3—continued

Table 1—continued

Item	DISCLOSURES	
	Column A Local Loop Business	Column B Other Telecommunications Businesses
<i>Current liabilities:</i>		
Bank overdraft	✓	✓
Accounts payable	✓	✓
Accrued payroll	✓	✓
Other accruals	✓	✓
Dividend provision	✓	✓
Other	✓	✓
Total current liabilities	✓	✓
<i>Term liabilities:</i>		
Long-term debt	✓	✓
Other	✓	✓
Total liabilities	✓	✓
<i>Funding:</i>		
Equity	✓	✓
Total funding	✓	✓
Total equity and liabilities	✓	✓
Revenue		
<i>Local loop business revenue from non-Corporation entities from:</i>		
• the local telephone service		
• access	✓	
• calling	✓	
• other	✓	
• value-added services; including—		
• directory services	✓	
• other	✓	
• any other local loop business services	✓	
Other telecommunications businesses revenue from non-Corporation entities for goods and services (eg, national and international toll and freephone calls)		✓
<i>Revenue for interconnection to:</i>		
• the local loop business from—		
• the other telecommunications business	✓	
• non-Corporation entities	✓	

3—continued

Table 1—continued

Item	DISCLOSURES	
	Column A Local Loop Business	Column B Other Telecommunications Businesses
• the other telecommunications businesses from—		
• the local loop business		✓
• non-Corporation entities		✓
<i>Transfer payments</i> (revenue [excluding revenue for interconnection] to local loop business)	✓	
<i>Transfer payments</i> (revenue [excluding revenue for interconnection] to other telecommunications businesses)		✓
Equipment sales		✓
Rental income (eg, property, equipment)		✓
Interest on short-term investments	✓	✓
Interest on long-term investments		✓
Dividend income		✓
Gain (loss) on investments		✓
Any other revenue not listed above that is—		
• related to local loop business activities	✓	
• not related to local loop business activities		✓
Total revenue	✓	✓
Expenditure		
<i>Expenditure on interconnection to:</i>		
• local loop business network		✓
• other telecommunications businesses networks	✓	
• non-Corporation entities' networks	✓	✓
<i>Transfer payments</i> (payments [excluding expenditure on interconnection] by the local loop business) for—		
• maintenance services	✓	
• inter-Corporation management fees	✓	

3—continued

Table 1—continued

Item	DISCLOSURES	
	Column A Local Loop Business	Column B Other Telecommunications Businesses
• any other services	✓	
<i>Transfer payments</i> (payments [excluding expenditure on interconnection] by the other telecommunications businesses)		✓
<i>Repairs and maintenance on:</i>		
• Local loop access network	✓	
• Local telephone exchanges	✓	
• Local inter-exchange links	✓	
• Assets utilised in delivery of other telecommunications services		✓
• Other	✓	✓
Total repairs and maintenance	✓	✓
Employee salaries and redundancy expenses	✓	✓
Human resource expenses (eg, FBT, accident insurance, superannuation, training, and recruitment)	✓✓	✓✓
Payment to external contractors	✓	✓
Customer support (eg, managing customer inquiries and complaints, billing and information system expenses)	✓	✓
Cost of equipment sales/rentals		✓✓
<i>Depreciation on:</i>		
• Local loop access network	✓	
• Local telephone exchanges	✓	
• Local inter-exchange links	✓	
• Assets utilised in delivery of other telecommunications services		✓
• Customer billing and information assets	✓	✓
• Customer premises equipment		✓✓
• Capital works in progress	✓	✓
• Motor vehicles	✓	✓
• Office equipment	✓	✓
• Buildings	✓	✓

3—continued

Table 1—continued

Item	DISCLOSURES	
	Column A Local Loop Business	Column B Other Telecommunications Businesses
• Other assets	✓	✓
Total Depreciation	✓	✓
Amortisation of goodwill	✓	✓
Amortisation of other intangible assets		
Corporate and administration expenses (eg, communications, insurance and security, accounting, treasury, auditing, bank fees, trust fees and expenses, photocopying, and subscriptions)	✓	✓✓
Audit fees	✓	✓
Directors' fees	✓	✓
Donations	✓	✓✓
Land and building expenses	✓	✓✓
Motor vehicle expenses	✓	✓✓
Directory services (eg, repairs and maintenance, and depreciation)	✓	
Bad debts and doubtful debts and collection expenses	✓✓	✓✓
Merger and acquisition expenses		✓✓
Takeover defence expenses	✓	✓✓
Research and development expenses	✓	✓✓
Consultancy and legal expenses	✓	✓✓
Subvention payments	✓	✓
Abnormal expenses	✓	✓
Any other expenses—		
• related to local loop business activities (including marketing/advertising)	✓	
• not related to local loop business activities (including marketing/advertising)		✓
Total expenditure	✓	✓
Earnings before interest and tax	✓	✓
Interest expense	✓	✓
Taxation expense	✓	✓

3—continued

Table 1—continued

Item	DISCLOSURES	
	Column A Local Loop Business	Column B Other Telecommunications Businesses
Net profit after tax	✓	✓
Statements of movements in equity Individual item disclosure as required by clause 3 of Part 2	✓	✓
Statements of cash flows Individual item disclosure as required by clause 3 of Part 2	✓	✓

4

Reg 3(5)

Financial performance measures

Financial performance measures:

- (a) Return on funds, being earnings before interest and tax (as adjusted), divided by average total funds employed, calculated in accordance with the following formula:

$$\frac{a + b}{c}$$

- (b) Return on equity, being net profit after tax (as adjusted), divided by average total equity (as adjusted), calculated in accordance with the following formula:

$$\frac{d + b(1 - t)}{e + f}$$

- (c) Return on investment, calculated in accordance with the following formula:

$$\frac{a + b - [g + b*t] + h}{c - \frac{h}{2} + i}$$

where—

a is earnings before interest and tax:

4—continued

- b is the value of the subvention payment for this financial year:
- c is average total funds employed:
- d is net profit after tax:
- e is the average total equity, being the amount calculated according to the following formula:

$$\frac{x + y}{2}$$

where—

- x is total equity at the end of the previous financial period, as presented in the statement of financial position:
- y is total equity at the end of the financial period, as presented in the statement of financial position:
- f is the average subvention payment and related tax adjustment, being the amount calculated according to the following formula:

$$\frac{(x + y) + (f - t)}{2}$$

where—

- x is the value of the subvention payment for the preceding financial period, as presented in the statement of financial performance:
- b is the value of the subvention payment for this financial period, as presented in the statement of financial performance:
- g is income tax expense:
- h is revaluations:
- i is the average total intangible assets, being the amount calculated according to the following formula:

$$\frac{x + y}{2}$$

where—

- x is the total intangible assets at the end of the previous financial period, as presented in the statement of financial position:

4—*continued*

- y is the total intangible assets at the end of the financial period, as presented in the statement of financial position:
- t is the standard entity income tax rate.

5

Reg 5(2)(d)

Form for derivation of financial performance
measures

5—continued

	Sym- bol in For- mula	Calcula- tions	Return on Funds	Return on Equity	Return on Investment
Earnings before interest and tax (EBIT)	a		[insert figure]	N/A	[insert figure]
Net profit after tax (NPAT)	d	b*t	N/A	[insert figure]	N/A
Subvention Payment	b		add [insert figure]	add [insert figure]	add [insert figure]
Subvention Payment tax			N/A	deduct [insert figure]	add [insert figure]

5—continued

adjustment							
Income tax	g			N/A		N/A	deduct [insert figure]
Revaluations	h			N/A		N/A	add [insert figure]
Numerator (as adjusted)		=a+b	EBIT^{ADJ}	=d+b(1+t) =>d+b-b*t	NPAT^{ADJ}	=a+b-g+b*t	EBIT^{ADJ}
Fixed Assets at periods beginning (FA ⁰)			[insert figure]		N/A		[insert figure]

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Schedule 1

5—continued

Fixed Assets at period end (FA ¹)		add [insert figure]	N/A	add [insert figure]
Net Working Capital at period beginning (NWC ⁰)		add [insert figure]	N/A	add [insert figure]
Net Working Capital at period end (NWC ¹)		add [insert figure]	N/A	add [insert figure]

5—continued

Average total funds employed	c	=	divide by	Ave ATFE	N/A	divide by 2	Ave ATFE
		(FA ₀ +FA ₁ +NWC ₀ +NWC ₁)/2					
Total Intangible Assets at period beginning (IA ⁰)				N/A	N/A		[insert figure]
Total Intangible Assets at period end (IA ¹)				N/A	N/A		add [insert figure]

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5—continued

Average total intangible assets	i	= (IA ₀ +IA ₁)/2	N/A	N/A	divide by 2	Ave TIA
Total Equity at period beginning (TE ⁰)			N/A	[insert figure]		N/A
Total Equity at period end (TE ¹)			N/A	add [insert figure]		N/A
Average total equity	e	= (TE ₀ +TE ₁)/2	N/A	divided by 2	AVE TE	N/A
Revaluations	h		N/A		N/A	[Insert figure]

5—continued

Subvention payment from previous period (b ⁰)			N/A	[insert figure]	N/A
Subvention payment for current period (b ¹)			N/A	add [insert figure]	N/A
Subvention payment tax adjustment at period beginning	=b ₀ t		N/A	deduct [insert figure]	N/A

5—continued

Subvention payment tax adjustment at period end		=b ₁ t	N/A		deduct [insert figure]	N/A
Average subvention payment & related tax adjustment	f	=[(b ₀ +b ₁) (1-t)]/2 =(b ₀ +b ₁ -b ₀ t)/2	N/A	divide by 2	AVE b & Tax	N/A

5—continued

Denominator (as adjusted)		=c	ATFE ^{ADJ}	e+f	Ave	=	ATFE ^{ADJ}
			EBIT ^{ADJ} /ATFE ^{ADJ}		NPAT ^{ADJ} /ATE ^{ADJ}		TE ^{ADJ}
Financial Performance Measure:			Return on Funds		Return on Equity	x100/1=	Return on Investment

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Schedule 1

5—continued

KEY:

t= STANDARD ENTITY TAX RATE; ^{ADJ} = as adjusted; Ave = average; subscript '0' = beginning of financial period; subscript '1' = end of financial period

Subvention payments must be determined using the following rules:

- | | | | |
|--|---|---|--|
| i Where the relevant financial period is the half financial year ending 31 Dec 2000, the subvention payment from the previous period (B ₀) is the subvention payment for the previous immediate half financial year, and | ii Where the relevant financial period is for any other half financial year, the subvention payment from the previous period (B ₀) is the subvention payment for the previous full financial year divided by 2; and | iii Where the relevant financial period is the full financial year ending 30 June 2001, the subvention payment from the previous period (B ₀) is the subvention payment the period from 1 Jan to 30 Jun 2000; and | iv Where the relevant financial period is any other full financial year, the subvention payment from the previous period (B ₀) is the subvention payment for the previous immediate full financial year. |
|--|---|---|--|

Schedule 2

Reg 10(2)

Methodology for calculating losses from Kiwi Share Obligations

1

For costing purposes, the Kiwi Share Obligations include the following telecommunications goods and services supplied in New Zealand by the Corporation:

- (a) Residential telephone lines; and
- (b) Residential directory services; and
- (c) Emergency call centres supporting emergency telephone numbers.

2

The losses from Kiwi Share Obligations are the unavoidable net losses incurred by an efficient operator in providing the services covered by the Kiwi Share Obligations to the required customer or customer group.

3

The net losses calculation must be based upon objective, transparent, and non-discriminatory procedures and criteria.

4

The net losses calculation must identify the cost an efficient operator would face, less revenues and associated benefits, of providing the services covered by the Kiwi Share Obligations to a customer or customer group, including,—

- (a) In the case of existing customers, the cost of providing service must include only the incremental costs less as-

sociated revenues; that is, the net losses that the Corporation can avoid by withdrawing service from non-viable customers (if withdrawal was permitted under the Kiwi Share Obligations). Loss of directory services revenues must be included in the case of large groups of non-viable customers; and

- (b) In the case of new customers (whether in an area where the network has already been built or in an area where service has yet to be extended), the same approach as set out in paragraph (a) must in principle be adopted; and
- (c) In all cases a reasonable return on the incremental capital employed in providing service to non-viable customers must be allowed; and
- (d) In this clause and clause 5, **non-viable customers** means those customers where the total direct and indirect revenue for the Corporation is less than the cost of providing service to that customer.

5

The assessment of incremental revenues and associated benefits must include—

- (a) Connection (ie, a one-off revenue for installation), rental, and call revenues paid by customers or customer groups (ie, direct revenues); and
- (b) The call revenues paid by all commercially viable customers, when calling non-viable customers (ie, indirect revenues, including revenues from freephone services and shared cost services); and
- (c) The replacement call revenue, which must be estimated and set against the incremental direct revenues that would be lost if services were withdrawn from non-viable customers.

6

When calculating net losses, a quantification of the intangible benefits of being New Zealand's only universal service provider must be included on the benefit side, including benchmark estimates for the following:

- (a) Enhanced brand recognition (vis-à-vis competitors); and

- (b) Universal coverage in the area of ubiquitous operation (ie, comparatively lower costs than competitors in extending network to new customers); and
- (c) Life cycle value of particular customers or customer groups; and
- (d) Marketing benefit of accessing a full range of telephone usage data.

7

The net losses of emergency services, directory services, and the provision of special equipment or services must be separately identified, and,—

- (a) In the case of emergency services, a distinction must be made between the obligation to provide free emergency calls, which is implicitly required of all telecommunications operators (so that each bears its own costs) and the obligation on the Corporation to provide an emergency call centre with trained staff, to handle emergency calls at a national or regional level. The net cost of such a call centre is recoverable under the Kiwi Share Obligations:
- (b) Where such services are provided at prices that result in the total incremental revenues (if any) not covering the total long-run incremental cost of service provision, the net losses incurred must be added to the cost of the obligations.

8

No account may be taken, in calculating the net losses of Kiwi Share Obligations, of obligations that are outside their scope, for example,—

- (a) The cost of implementing specific measures required for the purposes of public security:
 - (b) Compensation and/or refund payments (or administrative and other costs associated with such payments) made to users as a result of failure to meet specified service quality levels:
 - (c) The cost of replacement and/or upgrading of telecommunications equipment in the course of normal network modernisation.
-

Schedule 3

Forms

Form 1

Reg 13

Form of statutory declaration

I, [*Insert full name*], of [*Insert address*] being a director/officer* of Telecom Corporation of New Zealand Limited solemnly and sincerely declare that having made all reasonable enquiry, to the best of my knowledge,—

- (a) The financial statements attached to this declaration are true copies of financial statements of the company that—
 - (i) Comply with the requirements of regulation 3 of the Telecommunications (Information Disclosure) Regulations 1999; and
 - (ii) Have been made available to the public by Telecom Corporation of New Zealand Limited in accordance with that regulation*:
- (b) The information attached to this declaration is a true copy of information that—
 - (i) Complies with the requirements of the Telecommunications (Information Disclosure) Regulations 1999; and
 - (ii) Has been made available to the public by Telecom Corporation of New Zealand Limited in accordance with those regulations*:
- (c) The statement(s), report(s), agreement(s), particular(s), information [*Specify*] attached to this declaration is/are the statement(s), report(s), agreement(s), particular(s), information [*Specify*] requested to be supplied by the chief executive of the Ministry of Economic Development under section 5D(c) of the Telecommunications Act 1987*.

* *Delete as appropriate*

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Form 1—*continued*

.....

Registrar

.....

Declared at this day of
..... 200 .

.....

Justice of the Peace (or Solicitor or other
person authorised to take a statutory dec-
laration).

Form 1 was amended, as from 7 September 2000, by section 13 Ministry of Economic Development Act 2000 (2000 No 28) by substituting the words “chief executive of the Ministry of Economic Development” for the words “Secretary of Commerce”.

Form 2
Auditor’s report

Reg 13(1)

To the readers of the financial statements of Telecom Corporation of New Zealand Limited.

I/We have audited the accompanying financial statements of Telecom Corporation of New Zealand. The financial statements provide

Form 2—*continued*

information about the past financial performance, financial position, and cash flows of Telecom Corporation of New Zealand Limited. This information is stated in accordance with the accounting policies set out on pages [...to...]. As the financial statements of the local loop business and other telecommunications businesses are derived from the financial statements of Telecom Corporation of New Zealand Limited, the financial statements of the local loop and other telecommunications businesses must, at all times, be read in conjunction with—

- The financial statements of Telecom Corporation of New Zealand Limited; and
- Telecom Corporation of New Zealand Limited's basis for attributing assets, liabilities, income, expenses, and cash flows to the 2 business entities.

Directors' Responsibilities

The Telecommunications (Information Disclosure) Regulations 1999 require the Directors to prepare financial statements that give a true and fair view† of the financial position, financial performance, and cash flows of Telecom Corporation of New Zealand Limited as at [*Insert date*] for its local loop and other telecommunications businesses. In doing so, the Directors must make reasonable assumptions as to the allocation of assets, liabilities, income, expenses, and cash flows to the 2 business entities as outlined on pages [...to...].

Auditor's Responsibilities

It is my/our responsibility to express an independent opinion on the financial statements of the local loop and other telecommunications businesses of Telecom Corporation of New Zealand Limited presented by the Directors in accordance with the Telecommunications (Information Disclosure) Regulations 1999, and report my/our opinion to you.

Basis of Opinion

An audit includes examining, on a test basis, evidence relevant to the amounts and disclosures in the financial statements. It also includes assessing—

- the significant estimates and judgments made by the Directors in the preparation of the financial statements; and

Form 2—*continued*

- whether the accounting policies are appropriate to Telecom Corporation of New Zealand Limited's circumstances, consistently applied and adequately disclosed.

I/We conducted my/our audit in accordance with generally accepted auditing standards in New Zealand. I/We planned and performed my/our audit so as to obtain all the information and explanations that I/we considered necessary. I/We obtained sufficient evidence to give reasonable assurance that the financial statements are free from material misstatements, whether caused by fraud or error. In forming my/our opinion I/we also evaluated the overall adequacy of the presentation of information in the financial statements.

Other than in my/our capacity as auditor, I/we have no relationship with or interests in Telecom Corporation of New Zealand Limited.

[* Insert other information including matters relating to "fundamental uncertainty". Further guidance on these matters is set out in auditing standards contained in the Institute Handbook.]

*** Unqualified Opinion**

I/We have obtained all the information and explanations I/we have required.

In my/our opinion,—

- proper accounting records have been maintained by Telecom Corporations of New Zealand Limited as far as appears from my/our examination of those records; and
- the derived financial statements of the local loop and other telecommunications businesses referred to above, read in conjunction with the financial statements of Telecom Corporation of New Zealand Limited,—
 - comply with generally accepted accounting practice; and
 - give a true and fair view[†] of the financial position of Telecom Corporation of New Zealand Limited as at [*Insert date*] and the results of its operations and cash flows for the year then ended; and
 - comply with the Telecommunications (Information Disclosure) Regulations 1999.

OR

Form 2—*continued*

*** Qualified Opinion**

[Insert the nature of the qualification, together with the impact on the financial statements. Further guidance on qualified opinions is set out in auditing standards contained in the Institute Handbook.]

OR

*** Disclaimer of Opinion**

[Insert the nature of the disclaimer opinion. Further guidance on disclaimer opinions is set out in auditing standards contained in the Institute Handbook.]

My/our audit was completed on *[Insert date]* and my/our opinion is expressed as at that date.

** Delete that which is inapplicable.*

[Signature of Auditor]

[Name of Auditor]

[Date]

†In order to arrive at a true and fair view, the auditor is required to obtain reasonable assurance (in his or her best professional judgement), but is not required to obtain absolute assurance, as to the assumptions and bases provided by the Directors and upon which the financial statements are prepared. The auditor is not required to provide an opinion on every such assumption and basis as true and fair.

Form 3 Reg 14(3)
Certification by auditor of losses from Kiwi
Share Obligations

I have examined the attached information, being losses incurred in complying with the Kiwi Share Obligations, prepared by Telecom Corporation of New Zealand Limited and dated [*Insert date*] for the purpose of regulation 10 of the Telecommunications (Information Disclosure) Regulations 1999.

I certify that, having made all reasonable enquiry, to the best of my knowledge, that information has been prepared in accordance with the Telecommunications (Information Disclosure) Regulations 1999.

[*Signature of Auditor*]

[*Name of Auditor*]

[*Date*]

MARIE SHROFF,
Clerk of the Executive Council.

Explanatory Note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 January 2000, replace the Telecommunications (Disclosure) Regulations 1990.

The regulations require Telecom Corporation of New Zealand Limited to disclose the following information:

- (a) Financial statements in respect of its local loop business and other telecommunications businesses (as those businesses are

defined in accordance with the avoidable cost allocation methodology):

- (b) Information about certain services offered by the Corporation, namely—
- access to Telecom’s public switched telephone network
 - certain interconnections to Telecom’s public switched telephone network, including any loss from Telecom’s Kiwi Share Obligations
 - leased circuits
 - telecommunication links that enable the making of certain telephone calls, including local calls, national toll calls, and national freephone calls, but excluding international toll calls.

The financial statements in respect of the local loop business and the other telecommunications businesses must—

- (a) Be prepared on an annual and half-yearly basis; and
- (b) Be prepared in accordance with generally accepted accounting practice as if the local loop business and other telecommunications businesses were independent and unrelated entities; and
- (c) Separately identify items specified in the regulations; and
- (d) Include financial performance measures required by the regulations.

Contents

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-

Notes**1 General**

This is an eprint of the Telecommunications (Information Disclosure) Regulations 1999. It incorporates all the amendments to the Telecommunications (Information Disclosure) Regulations 1999 as at 1 April 2008. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 About this eprint

This eprint has not been officialised. For more information about officialisation, please see "Making online legislation official" under "Status of legislation on this site" in the About section of this website.

**3 List of amendments incorporated in this eprint
(most recent first)**

Income Tax Act 2007 (2007 No 97): section ZA 2(1)
