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**Submission on the Proposed Qualified Revenue Framework
for the Telecommunications Development Levy**

Introduction

1. Vector Limited ("Vector") welcomes the opportunity to make this submission on the Commerce Commission's ("the Commission") consultation document, *Establishing the Qualified Revenue Framework for the Telecommunications Development Levy*, dated 19 October 2012.
2. Vector also appreciates the Commission's intention to engage with stakeholders on the proposed Qualified Revenue Framework ("QRF") for the Telecommunications Development Levy ("TDL") through a workshop in mid-November 2012.
3. The format of this submission is in accordance with the Commission's specific questions in the consultation document. Given the very tight timeframe for making submissions, Vector reserves the right to make further comments on aspects of the proposed QRF at the workshop.
4. No part of this submission is confidential and Vector is happy for it to be made publicly available.
5. Vector's contact person for this submission is:

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Application of the net revenue method

6. Vector considers that the Commission's proposed application of the net revenue method generally reflects the intent behind its decision to adopt this method.
7. Vector agrees with the Commission's proposal to retain the deductions for intra-industry sales between liable persons and deduct the value of non-telecommunications services that are sold as a bundle with telecommunications services.

Revenue from non-telecommunications services in a bundle

8. Vector agrees with the Commission's proposal allowing liable persons to undertake a self-assessment in identifying and auditing the non-telecommunications components of the bundled products and services they provide.
9. Vector also agrees with the proposal allowing liable persons to claim deductions of revenues from non-telecommunications services using either 1) observable standalone prices, or 2) the input costs for those services, assuming no margin. This would provide a degree of flexibility for liable persons as the composition of their bundled services evolve to meet customer needs and respond to competitive market pressures.
10. Complications, however, could arise in the selection of the closest observable standalone price, where the liable person's interpretation differs from those of other liable persons or the Commission. Vector recommends that the Commission provide further guidance on how it would ensure that comparable prices are being used for comparable services by all liable persons, and how varying interpretations, if not disputes, would be settled.
11. The Commission proposes that revenue from the sale of customer premises equipment is to be treated as non-qualifying revenue. Vector assumes that revenue from leasing, supporting and managing similar equipment would also be non-qualifying revenue, for example, managed customer premises equipment (routers) as part of a corporate wide area network solution. If these services were provided as part of a bundle, then it should follow that the margin on these services would also be non-qualifying revenue. Vector seeks confirmation from the Commission regarding this interpretation.
12. The Commission indicates that it will confirm the value of the non-telecommunications components of a bundle based on all the supporting information provided by the liable persons. Vector recommends that the Commission undertake this process in close coordination or consultation with the relevant liable persons.

Payments to non-liable persons for services originally purchased from a liable person

13. Vector agrees with the Commission's proposal to retain the deduction for payments to non-liable persons reselling telecommunications services. The Commission should, however, retain some flexibility around the provision of documentary evidence of those transactions, particularly for new liable persons. The Commission could, for example, specify alternative documents or processes it would consider as acceptable evidence.

Qualified revenue status for common revenue streams

14. The classifications set out in Attachment D of the consultation document, which identifies revenues that are *qualified*, *non-qualifying*, or *deductible*, make sense at an aggregate level.
15. Vector believes that revenues from dark fibre connecting two corporate offices of the same user (where there is no interconnection with other parties) would be classified under the "[r]evenue from fibre dedicated to a single user" rule (last item on the list, Attachment D), which the Commission considers to be non-qualifying. It would be helpful if the Commission would confirm this interpretation.
16. Fibre connecting two points of presence ("POPs") of a service provider could technically fit under the definition of a *single user* as there is no connection with other parties from a fibre provider perspective. However, given that the service provider would typically be using the dark fibre as part of its public telecommunications network ("PTN"), Vector queries how the Commission would treat this particular case.
17. Vector is likely to purchase dark fibre services from Local Fibre Companies ("LFCs") and Chorus that are inputs into a broader dark fibre service that, end-to-end, would fall under the "[r]evenue from fibre dedicated to a single user" rule. It is unlikely that the input (fibre) provider would be aware of the end-to-end nature of the service and would likely count this as part of its qualifying revenue. In turn, Vector could claim the expenditure as a legitimate deduction, but then also classify the overall service as non-qualifying. To clarify, an example is provided below:

LFC dark fibre service	A-end is end-user site X	B-end is LFC exchange
Vector dark fibre service	A-end is LFC exchange	B-end is end-user site Y
End-to end dark fibre service	A-end is end-user site X	B-end is end-user site Y
TDL implications	LFC pays TDL on \$355 qualifying revenue	
	Vector deducts \$355 as expenditure on purchasing telecommunications services from other liable persons	
	Revenue for end-to-end service classified as non-qualifying revenue under the above mentioned rule	

18. Vector would like to understand whether this scenario provides the outcome the Commission is expecting.
19. Further, Vector reiterates its view that since revenue from selling customer premises equipment is non-qualifying, revenue from leasing, supporting and managing similar equipment should also be non-qualifying.

Structure, format and content requirements

20. Vector supports the Commission's proposal to allow two or more corporate bodies to disclose qualified revenue information separately or in a consolidated manner. This would allow liable parties the flexibility to determine which approach is more appropriate for their circumstances, particularly those reporting for the first time.

Assurance reporting requirements

21. In its previous submissions on the TDL, Vector proposed that the Commission accord flexibility, particularly to persons complying with the reporting requirements for the first time, to the extent possible.¹ This could, for example, be in terms of timeframes and granularity of the information required.²
22. A case in point is the Commission's timeline in making a final TDL Determination, which has already been pushed to a later date due to issues that required further analysis and consultation, i.e. the identification of qualifying liable persons and establishing the QRF. It is therefore not unreasonable to expect that persons that had not been previously liable would not be able to bring the required financial information to auditable standards³ as efficiently as those that had been reporting similar information for years. Establishing the processes for meeting new

¹ <http://www.comcom.govt.nz/assets/Telecommunications/Telco-Development-Levy/Submissions-on-TDL/Vectors-Potential-TDL-Liability-Notification-submission-9-May-2012.pdf>, paragraph 5

² Ibid.

³ <http://www.comcom.govt.nz/assets/Telecommunications/Telco-Development-Levy/Submissions-on-TDL/Vector-submission-on-TDL-Discussion-Document-22-Feb-2012.pdf>, paragraph 30

requirements would not be costless and may take time, which the Commission should not underestimate.⁴

23. Vector reiterates that the Commission should make it explicit that information disclosed by liable persons for the purpose of the TDL should not be used for any other purpose.⁵

Others comments

24. Vector supports the Commission's decision to include Chorus and Transpower in the list of potentially liable persons. Doing otherwise would be 'distortionary' (and therefore inefficient), disadvantaging all other liable persons, who will have to bear disproportionate shares of the TDL.⁶ Vector believes this was not the policy intent behind the TDL.⁷
25. Vector recommends that the Commission review 1) the liable persons list, and 2) the types of qualifying and non-qualifying revenues, say every two years. This would assist the Commission in providing greater certainty for existing and potential levy payers, amidst rapidly evolving technologies and markets.
26. Vector looks forward to the workshop on the proposed QRF in mid-November and, as indicated above, reserves the right to make further comments at the workshop.

Yours sincerely



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⁴ <http://www.comcom.govt.nz/assets/Telecommunications/Telco-Development-Levy/Submissions-on-TDL/Vector-submission-on-TDL-Discussion-Document-22-Feb-2012.pdf>, paragraph 30

⁵ Ibid., paragraph 32

⁶ <http://www.comcom.govt.nz/assets/Telecommunications/Telco-Development-Levy/Submissions-on-TDL/Vectors-Potential-TDL-Liability-Notification-submission-9-May-2012.pdf>, paragraph 10

⁷ Ibid.