# C:\Users\shiree\downloads\MBIE Templates New\MBIE Templates New\memo clean.jpg

# Telecommunications Commissioner – Position Description

On behalf of the Minister for Communications, the Ministry of Business, Innovation and Employment (the Ministry) is seeking candidates who wish to be considered for appointment to the role of Telecommunications Commissioner. The Telecommunications Commissioner is a member of the Commerce Commission (the Commission). The appointment is likely to commence in July 2020.

## Skills, Experience, and Attributes Required

Under section 9(5) of the Telecommunications Act 2001, a person is qualified for appointment as the Telecommunications Commissioner by virtue of that person's knowledge of, or experience in, the telecommunications industry, commerce, economics, law, accountancy, public administration, or consumer affairs.

The Ministry is looking for candidates with the following skills and expertise:

* familiarity with the economic and financial analysis critical to regulatory decision-making
* a good understanding of the critical issues faced by the telecommunications industry
* familiarity with the various approaches taken by significant overseas jurisdictions in regulating their telecommunications markets
* the ability to oversee the investigation, monitoring and enforcement work of the Commerce Commission's telecommunications team
* a clear sense of public accountability and understanding of the relationships between Government and Crown entities
* experienced at working within statutory guidelines to make decisions
* strong relationship management skills, including working effectively in a collegial, decision-making environment and developing valuable strategic connections with industry, consumers and other stakeholders
* strong communication skills, including the ability to reason objectively and convey ideas clearly and accurately in different fora and media.

***The Telecommunications Commissioner and the Commerce Commission***

The Telecommunications Act 2001 establishes the position of Telecommunications Commissioner as a member of the Commission and sets out the Commissioner's functions. The Telecommunications Commissioner is a member of the Commission as provided in section 9(3) of the Commerce Act 1986.

The Commissioner has statutory decision-making responsibilities and participates fully in the governance of the Commission along with other Commission members. While the Telecommunications Commissioner oversees the work of the Commission’s telecommunications team, the position is not a managerial appointment.

The Commerce Commission is an independent Crown entity responsible for enforcing competition and consumer protection law. The Commission enforces the Commerce Act 1986, Fair Trading Act 1986 and Credit Contracts and Consumer Finance Act 2003. Under the Commerce Act 1986, the Commission also adjudicates on applications for clearance or authorisation of restrictive trade practices, and administers economic regulation for electricity lines, gas pipelines, and specified airport services. The Commission also has responsibilities under the Dairy Industry Restructuring Act 2001, as well as the Telecommunications Act 2001.

Further information about the Commission can be found on its website [www.comcom.govt.nz](http://www.comcom.govt.nz) .

***Commission Membership***

Under the Commerce Act, the Commission consists of four to six members. The Commission may also have any number of associate members, who are appointed by the Minister of Commerce and Consumer Affairs in relation to a matter, or class of matters, arising under an Act the Commission is required to act on independently.

As a member of the Commerce Commission the Telecommunications Commissioner is expected to attend the Commission’s board meetings, which are usually held monthly. The divisions led by the Telecommunications Commissioner meet twice per week. The Telecommunications Commissioner is also involved in the Commission’s adjudicative and enforcement divisions, outside of the telecommunications work streams.

In the course of carrying out the Commission's duties, members are required to:

* consider market practices, misleading and deceptive conduct by traders and anti-competitive behaviour
* set the Commission’s strategic direction, in a manner consistent with the statutory framework within which the Commission is established and the broader interests of the Crown as owner
* monitor the performance of the Commission, and of its Chief Executive
* ensure compliance with the law, accountability documents and relevant Crown expectations;
* assess and apply the relevant legislation and associated regulations
* maintain a respected and credible profile in the market
* have an understanding of the Commission’s role in the market and the wider economic environment in which it operates.

Commission members have fiduciary duties consistent with being a member of a governing body of a Crown entity. In addition, there are specific duties outlined in the Crown Entities Act 2004, including managing conflicts of interest. Members of the Commission have joint and personal liability, generally relating to acting in good faith and with reasonable care.

***Remuneration and time commitment***

Remuneration is determined by the Remuneration Authority. The Remuneration Authority will determine remuneration based on a range of criteria and factors including the recommended person’s background experience and knowledge as well as having regard to the position itself. For more information on the setting of remuneration for independent statutory officers and boards by the Remuneration Authority, see:

* Clients’ Remuneration Independent Officers and Boards <http://remauthority.govt.nz/clients-remuneration/independent-officers-and-boards/>
* Role of Remuneration Authority in Setting Remuneration for Individuals Appointed to Statutory Bodies and Other Positions: <https://www.dpmc.govt.nz/publications/co-11-7-role-remuneration-authority-setting-remuneration-individuals-appointed>.

The role of Telecommunications Commissioner is full-time.

***Term of appointment***

The term of appointment will be for five years, subject to negotiation. A member may resign at any time by written notice to the Minister (with a copy to the Board) signed by the member.

Section 15 of the Telecommunications Act 2001 lists the provisions of the Commerce Act 1986 and the Crown Entities Act 2004 that apply to the Telecommunications Commissioner. There is no reference to section 32 of the Crown Entities Act 2004, which means that the term of office as Telecommunications Commissioner will expire on the date specified on the notice of appointment.

***Crown Entities Act***

The Crown Entities Act 2004 provides a coherent framework for Crown entity governance and accountability, including responsibilities of board members, disclosure of interests, and the role of ministers. It is available at [http://www.legislation.govt.nz](http://www.legislation.govt.nz/).

Further information on how the relationships between Crown entities, ministers, and departments work in practice can be found on the State Services Commission’s website (<http://www.ssc.govt.nz/it-takes-three-operating-expectations-framework>)