



**Vector Submission to the  
Commerce Commission Further  
Input Methodologies Consultation  
Draft**

Due 13 August 2020

## Introduction

1. Vector notes the range of issues being considered in the Commerce Commission's Further Consultation Draft Reasons Paper are significant with many decisions reflecting a marked change from the Chorus Input Methodologies Draft Decision released late last year.
2. Vector considers the development of Input Methodologies in Part 6 of the Telecommunications Act 2001 (the Act) should not be considered in isolation from the rest of the Act. Rather, decisions under Part 6 should be consistent with other Parts to ensure the regulatory framework operates in a unified way.
3. In this submission we provide comment on how we anticipate service descriptions under Part 6 of the Act will assist with the Commission's responsibilities under other parts of the Act – namely Part 4AA. Finally, we discuss the importance of the IM framework to deliver certainty should not be compromised to align Part 6 and Part 4 Commerce Act weighted average cost of capital (WACC) reviews.

## Scope of Fixed Fibre Line Access Services – Service Descriptions

4. The Commission has always had a significant role with service description and specification in telecommunications regulation. This role has ensured access seekers had a clear understanding of the components they were acquiring from regulated supplier when developing their product suite.
5. Under the Part 2 framework, the Standard Terms Determination (STDs) for the copper customer access network are clear on the requirements for providing the regulated service and the optional ancillary services available with the regulated input.

6. The Commission should adopt a similar framework under Part 6 of the Act. The service descriptions for FFLAS (including, more importantly, for new FFLAS such as PONFAS) should be clear about the service ordering process, timeframes and handovers. This type of information was instrumental with access seekers taking up unbundled products for the copper customer access network.
7. Service descriptions for new layer 1 products such as PONFAS cannot be delegated to Chorus and LFCs to define critical features of the service, such as handover points and ordering rules. Given the Commission was not given the opportunity to develop the PONFAS service descriptions, Chorus and LFCs have been unconstrained with the design of the initial product offer terms for PONFAS. This has resulted in a PONFAS product that is designed to limit the take-up and commercial use of the product. Accordingly, the current terms for PONFAS derogate from both the original NIPA specification and non-discrimination and equivalence expectations of the Act.
8. We consider the focus on the economic bottleneck as part of the service description process will help the market deliver innovation in terms of speed, contention, service, support and / or pricing as access seekers can make informed decisions around their own products and investment when acquiring FFLAS products from Chorus and LFCs. The regulated service description and specification should be the starting point from which Chorus and LFCs develop their product material for customers. Given telecommunications is a fast-moving sector, there is an ongoing need for the Commission to iterate service descriptions to ensure they remain relevant to the needs of the market and Chorus' product suite.
9. We believe well defined service terms for FFLAS – especially for new layer 1 products – will ensure the Part 6 framework complements other parts of the Act, namely the safeguards in Part 4AA. Indeed, we encourage the Commission to further define transport, central offices, handovers, acceptable ordering timeframes and ancillary services so that customers have certainty around how these services can be utilised for product offerings.

## Certainty for Chorus and LFCs is more important than consistency between Part 4 and Part 6 cost of capital IMs

10. The Commission has indicated that it would like to align the assessment of the cost of capital IMs between Part 6 of the Act and Part 4 of the Commerce Act. The Commission cites its own decision to set a tax-adjusted market risk premium (TAMRP) for the return on equity for Chorus that is different to Part 4 suppliers. Vector raised the TAMRP in 2019 as a matter that could have been addressed by the Commission before setting the Default Price Path for non-exempt EDBs for 2020-2025. Indeed, Vector submitted to the Commission that its review of other Input Methodologies before setting of the DPP should also have included reviewing its assumptions around the TAMRP. This is because some of its model inputs for the TAMRP in the EDB IMs failed to hold true at the time of setting the DPP.<sup>1</sup> However, the Commission did not address this point. Accordingly, the divergence between the TAMRP for Chorus and EDBs appears to be based on the Commission's own judgement and restraint to change this WACC parameter.
11. Nonetheless, we discourage the Commission from hastily reviewing the Part 6 IMs to meet a perceived need to manage consistency between Part 6 and Part 4 of the Commerce Act. This is because the Commission itself has shown a preference for seeking to show certainty with how IMs are expected to apply, and this certainty should apply for an enduring period for Part 6 suppliers and customers.

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<sup>1</sup> Vector noted the negative real risk-free rate for DPP3 was an unexpected event from the 2016 IM Review and submitted an expert report by CEG "Dealing with Negative Real-Risk Free Rates" which highlighted the TAMRP impact