

# Chorus cross-submission on the Commerce Commission's fibre input methodologies – draft decision reasons paper (regulatory processes and rules) dated 2 April 2020

19 June 2020



## CROSS-SUBMISSION

1. This cross-submission responds to submissions on the Commerce Commission's (**Commission**) consultation on its *Fibre input methodologies: draft decision – reasons paper (regulatory processes and rules)*, published on 2 April 2020 (**Reasons Paper**).
2. We appreciate the opportunity to provide our views in response to other submissions on the Reasons Paper. Our cross-submission covers key themes and issues of importance.
3. The regulatory rule and processes input methodologies (**IMs**) are an important feature that will provide certainty for the regime and help ensure the transition does not create unintended shocks for consumers.

## Pass-through costs

4. We recommend the Commission reconsider its draft decision on the treatment of pass-through costs. There was strong support among all submitters that pass-through costs should include levies. Several submitters also supported treating local council rates and Utilities Disputes costs as pass-through costs, given the lack of supplier control to influence these costs.<sup>1</sup> In addition, the same submitters do not support the regulatory uncertainty that would arise from the Commission's proposed departure from the approach under Part 4 of the Commerce Act 1986 (**Part 4**), where local council rates and disputes costs are treated as pass-through costs.
5. Some submitters highlighted that pass-through costs can be a shared cost and where this occurs cost allocation should apply. We agree that shared costs should be attributed to the shared services accordingly, and that this equally applies to pass-through costs that cannot be wholly attributable to the fibre fixed line access services (**FFLAS**).
6. We note that the Part 4 IMs include a specific clause that provides for this under the pass-through cost IM<sup>2</sup> and would support the Commission providing a consistent approach for the fibre IMs. For example, the following could be added to the draft IMs as clause 3.1.2(2):

*Where a cost relates to both FFLAS and other services supplied by Chorus, only the proportion of the cost attributable to the supply of FFLAS (as determined in*

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<sup>1</sup> Enable Networks Limited and Ultra-fast Networks Limited, *Submission on NZCC Fibre Regulation Input Methodologies Rules and Processes* (27 May 2020); Electricity Networks Association, *Re: Fibre regulatory processes and rules IM* (29 May 2020); Vector Communications, *Submission on Regulatory Processes and Rules Draft Decision* (29 May 2020).

<sup>2</sup> Commerce Commission, *Electricity Distribution Services Input Methodologies 2012*, cl 3.1.2(4).

accordance with [cost allocation IM section reference]), may be a pass-through cost.

## Wash-up mechanism

7. We recommend the Commission reconsider its draft decision to leave the development of the wash-up mechanism to the price-quality stage. There was strong support and agreement that the Commission should provide for greater certainty with regard to the wash-up mechanism by including it in the IMs, and not leaving it to the price-quality stage to determine.<sup>3</sup>
8. We reiterate<sup>4</sup> that the final IMs should provide certainty and clarify how the wash-up will be applied to ensure suppliers can earn a fair return. We consider this should be achieved through principles in the IMs that guide the operation of the wash-up, which would preserve flexibility at the PQR stage. That is, principles regarding which of the inputs to the Maximum Allowable Revenue (i.e. building blocks, allocations, foreign exchange rates and CPI) will wash-up, and over what periods our revenue wash-ups will be recovered.
9. This is important for ensuring a clear line-of-sight to financial capital maintenance, and to provide for a regime that incentivises investment and innovation in the long-term interests of consumers.

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<sup>3</sup> Chorus, *Submission on the Commerce Commission's fibre input methodologies – draft decision reasons paper (regulatory processes and rules) dated 2 April 2020* (29 May 2020); Enable Networks Limited and Ultra-fast Networks Limited, *Submission on NZCC Fibre Regulation Input Methodologies Rules and Processes* (27 May 2020); Spark, *Fibre Input Methodologies: regulatory processes and rules draft* (29 May 2020); Two Degrees, *Submission - Regulatory Rules & Processes: Reasons Paper & Draft Input Methodology* (29 May 2020); Vocus, *Draft Regulatory Processes and Rules Fibre Input Methodologies Determination 2020* (19 May 2020).

<sup>4</sup> Chorus, *Submission on the Commerce Commission's fibre input methodologies – draft decision reasons paper (regulatory processes and rules) dated 2 April 2020* (29 May 2020).