



Fibre Input Methodologies: regulatory processes and rules draft

Comment | Commerce Commission
29 May 2020

Introduction

1. Thank you for the opportunity to comment the draft Regulatory Processes and Rules (**RPR**) Input Methodology (**IM**).
2. The Commission sets out its proposed approach to the specification and definition of price, and circumstances in which a PQ path may be reconsidered within a regulatory period.
3. The Commission draft reasons paper also explains why other topic areas suggested by submitters are not included in the draft IM.

Comment

Pass-through of TDL and Commission regulatory levy costs

4. The Commission has asked for submitter's views as to whether the full amount of the levies should be permitted as pass-through costs. We agree that it's not a straight-forward issue as to whether the full amount can be permitted as pass-through costs as this will depend on Chorus and LFC payments to other levy liable parties.
5. The TDL and regulatory levies are based on a liable person's telecommunications revenue less payments for inputs purchased from other liable parties (hence, qualified revenue). Chorus and LFCs are expected to derive telecommunications revenue from Part 6 and other services and it is likely possible to identify gross revenue for fibre network services (being revenue from access seekers and inputted revenue from their own business units). It would be inappropriate to include regulatory levies for services not regulated by Part 6 in the BBM.
6. However, capability and associated costs for services acquired from other liable parties may be shared between the regulated and other businesses. Accordingly, depending on the individual circumstances, this would require an allocation of the payments to other liable parties between fibre and other business, i.e. the fibre network operator potentially sources inputs from other liable parties which are shared between regulated fibre and other businesses and this would need to be deducted from gross revenues to identify liable revenues. It's unclear how material these costs are currently are or may become in the first and future regulatory periods.
7. There are options to resolve this, the Commission could:
 - a. Amend the draft RPR IM to specify relevant revenues and allocation mechanism for charges from other liable parties in order to derive liable revenues.
 - b. Specify the allocation of levy between regulated fibre and other businesses as part of its TDL determination.
 - c. Determine not to specify this to be a pass-through cost.

Provide rules on washup mechanism and revenue smoothing

8. We proposed in our earlier submission that washup mechanism rules be specified to ensure that other IM decisions deal consistently with residual risk faced by regulated operators, i.e. for assessing operator risk when setting WACC¹. The Commission notes that the detail of how the wash-up will apply is unlikely to change its decisions relating to asset stranding.

¹ See para 128 of the reasons paper for summary

9. We agree that this can be the case for asset stranding. However, the specification of the wash up can influence risks faced by the regulated provider generally. For example, in specifying the EDB washup the Commission considered options such as a washup cap and an adjustment for demand variances, and these options shift risk between the regulated provider and end-users².
10. A regulated provider facing a “pure” washup comprising prior period actual revenue and cost faces different risks and incentives to a washup where some parameters are fixed, i.e. based on forecast prior period volumes or costs. The allocation of these risks between regulated operator and end users should be considered in determining WACC, for example.

Provide pricing guidance or methodologies

11. The Commission draft position is that it not determine pricing structures or methodologies in the first regulatory period as the legal pricing constraints that the Act imposes on Chorus will, at least in the first regulatory period, sufficiently limit Chorus’ ability to set prices in ways that could lead to long-term harm to competition or to detriment to end-users of telecommunication services.
12. We believe that while the Commission will not set prices in the first regulatory period, it is expected to consider several pricing related matters (i.e. to review anchor prices) and setting out its proposed approach would promote certainty for regulated operators and access seekers who are making long term investment decisions.
13. Nonetheless, if the IM is not to include such guidance, the Commission should set out in the RPR IM how it will go about considering and setting prices over time.

[END]

² For example, see 2016 Input methodologies review decisions Topic paper 1. The Commission considered limits on under or over recovery pass through for price stability [109].