



CONSULTATION ON CHORUS' INITIAL PRICE QUALITY RAB PROPOSAL

Submission to the Commerce Commission

PUBLIC VERSION

28 May 2021

INTRODUCTION

1. Vocus welcomes the opportunity to submit in response to the “*Consultation on Chorus’ initial price quality RAB proposal*”, 30 April 2021.
2. If you would like any further information or have any queries about this submission, please contact:

Emily Acland
General Counsel and GM Regulatory
Vocus Group (NZ)
Emily.Acland@vocusgroup.co.nz

PROCESS ISSUES

3. We welcome that the Commerce Commission adopted our recommendation to consult on the Chorus’ RAB proposal before releasing the draft Price-Quality Path (PQP) proposal, even if time-constraints mean the Commission is only able to provide 4-weeks for submissions.
4. The limited time-frame and opportunity for engagement heightens the importance of the Commission’s own review of the proposal and the independent review. We agree “*In the absence of an independent verifier report, ... it [is] appropriate to seek an expert opinion to support our evaluation of Chorus’ expenditure proposal*”.¹
5. We also reiterate “*The Commission should also undertake the type of review it undertook of the Chorus’ TSLRIC and TSO modelling to identify issues that might need to be addressed*”.²
6. Based on our review of the Chorus’ RAB proposal, we agree a transitional RAB will be needed for the first PQP determination with subsequent wash-up depending on whether the final RAB is above or below the transitional value. We would also support changes being made to the Input Methodologies if this is needed to adopt the transitional approach. There are parallels with the proposed transitional approach and the mid-period reset the Commission adopted for the first electricity distribution PQP under Part 4 Commerce Act.
7. The need for a transitional approach is heightened by the apparent issues with Chorus’ asset value estimate.

RISK THAT CHORUS’ RAB PROPOSAL IS SUBSTANTIALLY INFLATED

8. We agree with the Commission and other stakeholders about the risk Chorus will game the limited timeframe for production of the first PQP determination with inflated cost and

¹ https://comcom.govt.nz/data/assets/pdf_file/0019/226711/Vocus-Submission-on-PQID-process-and-approach-paper-14-October-2020.pdf

² https://comcom.govt.nz/data/assets/pdf_file/0019/226711/Vocus-Submission-on-PQID-process-and-approach-paper-14-October-2020.pdf

asset value proposals e.g. we previously submitted “We ... agree with the Commission that “Chorus might have a greater incentive in PQP1 (relative to subsequent periods) to engage in forms of regulatory gaming””. It appears these concerns have been realised and manifest in Chorus proposing an excessive RAB.

9. We do not have confidence in Chorus’ RAB proposal. Left unchecked, this RAB would result in consumers paying too much for fibre broadband services, slowing uptake and resulting in inefficient substitution for fixed wireless etc services.
10. The Commission should be particularly mindful any excess asset valuation will capitalise and lock in wealth transfers from consumers to Chorus. Unlike excessive expenditure allowances this isn’t something the Commission could readily rectify in subsequently PQR determinations.
11. In respect of our concern Chorus has inflated its RAB proposal, we note by way of example:
 - 11.1 The issues Spark raised about excessive cost allocation to FFLAS in Chorus’ expenditure proposal appear to manifest in the allocation of shared assets, and the estimate of the Financial Loss Asset (FLA) value.
 - 11.2 The gap between a genuine accounting-based allocation approach (ABAA) asset allocation and avoidable cost allocation methodology (ACAM) should be more than Chorus’ \$500m estimate. A small gap like this would only be expected where: (i) limited other services are provided; and/or (ii) limited sharing of assets between services. For an organisation with a substantial legacy copper network this is implausible. It is also appears to be inconsistent with Chorus’ FLA estimate which is based the fibre business sharing substantial copper and pre-2011 assets.
 - 11.3 It isn’t evident there are any safe-guards against a return on investment being recovered from both copper prices (based on TSLRIC valuation) and the same investments being recovered again through Chorus’ proposed FFLAS asset valuation. The observations from Spark in relation to the Chorus’ expenditure proposal are of particular concern:

“Chorus proposes to allocate over 90% of shared labour costs to FFLAS where these services comprise around 50% of Chorus revenue and connection share. As it stands, the proposal likely leads to substantive double recovery.”
 - 11.4 We welcome the Commission’s identification of examples of apparent non-compliance with the Input Methodologies, and other methodological problems which systematically result in an inflated RAB estimate. For example, the Commission identified Chorus’ is claiming its total expenditure on fibre represented approximately 71% of Chorus’ total expenditure in 2020, which compares to a connections-based ratio of 53%.

Our expectation is that further issues will emerge once the Commission has had more opportunity to review the proposal, and it has been subject to independent review.