

**Cross-submission on  
Chorus' price-quality  
path for the second  
regulatory period  
(2025 – 2028) – draft  
decision**

**10 September 2024**

**C H ● R U S**

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## Introduction

1. This is Chorus' cross-submission on the Commerce Commission's (**Commission**) draft price-quality decision for PQP2 (**draft decision**).
2. This cross-submission responds to selected points made in submissions by mobile network operators (**MNOs**).

## Quality standards

### Availability quality standard

3. One NZ submitted that it does not support the Commission's proposed use of the "two consecutive years" standard for determining breaches to the availability standard. One NZ stated:

*2 years is a long time to determine and resolve any systemic issues that might arise. Consecutive issues over a 1-year period could result in very poor customer experience.<sup>1</sup>*
4. One NZ instead recommends that the availability standard is applied for a one-year period. One NZ noted:

*This could include a higher threshold or a multiple event threshold, which would avoid Chorus being penalised for a single random event whilst ensuring that sufficient incentives exist to protect end-users from poor service experience in a single year.<sup>2</sup>*
5. Chorus supports the Commission's use of the two consecutive year approach which reflects a focus on systemic quality failures rather than random variations. Returning to a single year approach, as One NZ suggests, would require a multiple event threshold **and** an increase to the threshold.
6. The Commission's methodology for establishing the thresholds, targeting a 0.5% chance of breaching in single year, would require the limits to be set at 150 minutes for layer 1 and 41 minutes for layer 2, in the absence of a multi-event threshold. These thresholds are similar to those applied in PQP1.
7. The combination of tightening of the availability thresholds while assessing a breach as exceeding the limit in two consecutive years would better support quality service delivery to end-users than using a single year breach approach in conjunction with significantly higher thresholds.

<sup>1</sup> One NZ, *Submission on the draft decision on Chorus' quality standards and revenue path for the second regulatory period*, 15 August 2024, paragraph 3.

<sup>2</sup> One NZ, *Submission on the draft decision on Chorus' quality standards and revenue path for the second regulatory period*, 15 August 2024, paragraph 3.

## Provisioning quality standard

8. MNOs generally supported the Commission's draft decision to include a provisioning standard,<sup>3</sup> but each MNO submitted on potential improvements to the Commission's proposed approach.

### One NZ and Spark

9. One NZ noted that there was uncertainty about the measurement of reschedules initiated by Chorus, stating that it is not clear how the Commission intends to distinguish between reschedules by the end user vs Chorus:

*For the provisioning quality standard to be effective, it is critical that it is accompanied by a robust governance framework to ensure that end user driven reschedules are genuinely initiated by the end user rather than Chorus.<sup>4</sup>*

10. Spark suggested that the Commission augment the provisioning quality standard by:
- a. *Ensuring that the correct rescheduling code is used for the purposes of the measure. Compliance with reschedule codes has been an ongoing issue for our teams and basing a quality standard on these codes may add to compliance issues.*
  - b. *Monitoring the number and proportion of multiple reschedules. While delivering on the agreed connection date is a customer concern, repeat reschedules is the consistent and annoying issue for our customers. Some customers are subject to multiple reschedules through no fault of their own. We see multiple reschedules occurring over two phases and these could be considered separately in any monitoring:*
    - i. *The build phase where a failure to resolve the root cause of the delay to network build results in multiple reschedules, sometimes for months or years. For example, delayed council permits to dig, access with other utilities or resolving records data issues, and*
    - ii. *Once the consent & build is complete, the actual install may be rescheduled multiple times.*
  - c. *Monitoring the number and proportion of missed appointments. Missed appointments is also an ongoing concern for our customers and the Commission should encourage LFCs to minimise the number of missed appointments, and*

<sup>3</sup> See, One NZ, *Submission on the draft decision on Chorus' quality standards and revenue path for the second regulatory period*, 15 August 2024, paragraph 7, Spark, *Submission on the draft decision on Chorus' quality standards and revenue path for the second regulatory period*, 15 August 2024, paragraph 13, Vector Fibre, *Submission on the draft decision on Chorus' quality standards and revenue path for the second regulatory period*, 15 August 2024, paragraph 3.

<sup>4</sup> One NZ, *Submission on the draft decision on Chorus' quality standards and revenue path for the second regulatory period*, 15 August 2024, paragraph 9.

*d. Monitoring the overall time to deliver a working fibre service to customers, i.e., how long it takes end to end to connect a customer.<sup>5</sup>*

11. With regards to Spark and One NZ's concerns about rescheduling codes, we note that our existing approach involves daily spot checks to verify the correct rescheduling code use.
12. As the consent and build phase does not involve customer appointments, there is no 'reason code' we could use as an indicator of acceptable vs unacceptable reasons for delays. As noted in our submission, Chorus should only be accountable for reschedules that are within our control. There are a wide range of factors and parties impacting network build that are outside of Chorus's control (or that of our service companies) so measuring delays during this phase is not as simple as suggesting it is either a customer or Chorus driven reschedule.
13. Once the consent and build process is complete, we must pay a penalty for every reschedule not driven by the customer. This incentivises Chorus to meet as many appointments first time as possible. While we recognise the Chorus-driven reschedules may be frustrating to customers, in some instances they are unavoidable. We do not know whether RSPs pass the penalties that we pay on to the impacted customers to compensate them for their inconvenience when this occurs.
14. Spark's suggestion that the Commission should monitor overall time to deliver a working fibre service to customers is already achieved through Information Disclosure reporting, as we report in Schedule 19(i) the monthly median provisioning time by POI. The schedule also reports on the percentage of simple or complex connections that exceeded a specified number of calendar days each month.

### Vector Fibre

15. Vector Fibre claimed the standard proposed in the draft decision did not address its concerns about how Chorus' approach to provisioning layer 1 unfairly advantaged Chorus' layer 2 business to the detriment of access seekers and end users.<sup>6</sup> Vector Fibre's claims about our approach to layer 1 provisioning are unfounded and have previously been investigated by the Commission.
16. Vector Fibre recommended that the provisioning standard should mandate timeframes for provisioning and that the provisioning timeframes for DFAS and PONFAS should be relational, if not the same.<sup>7</sup>
17. We have previously noted why setting absolute timeframes for provisioning is likely to lead to inefficiency.<sup>8</sup> Provisioning performance depends on having the right level of resource on hand to meet order volumes. Order volumes have been declining as network expansion slows and uptake reaches very high levels in fibre coverage areas. It would be inefficient to establish a provisioning standard that required a

<sup>5</sup> Spark, *Submission on the draft decision on Chorus' quality standards and revenue path for the second regulatory period*, 15 August 2024, paragraph 14.

<sup>6</sup> Vector Fibre, *Submission on the draft decision on Chorus' quality standards and revenue path for the second regulatory period*, 15 August 2024, paragraph 4.

<sup>7</sup> Vector Fibre, *Submission on the draft decision on Chorus' quality standards and revenue path for the second regulatory period*, 15 August 2024, paragraph 14-15.

<sup>8</sup> Chorus, *Submission on the Process and approach paper for the 2025-2028 regulatory period*, 10 October 2023, paragraph 99-108

reserve of technician resource (even if that were possible) in order to maintain performance in the case of any spike in order volumes or change in trend. There could also be worker welfare consequences.

18. Differences in the relative provisioning times of different fibre services (particularly those with low-volumes and/or which require network augmentation) has no bearing on whether Chorus is delivering fibre services of a quality which reflects end-user demands and is something that could reasonably be expected in a workably competitive market. Accordingly, setting a quality standard to try to adjust this would not advance the purpose of Part 6, but is very likely to impose costs ultimately borne by fibre end-users.

## Other quality standards

19. One NZ submitted that a customer service standard would be beneficial to drive customer service improvements that the Commission's broader retail service quality work is focused on. One NZ also noted that as an alternative to a standard, it would support the Commission's suggestion that "changes to the customer satisfaction ID requirements may allow for better transparency to Chorus' customer service" and recommended that the Commission proceeds with implementing the proposed changes.<sup>9</sup>
20. Customer experience measures are an important internal KPI for Chorus. However, as the Commission has acknowledged, the fact that RSPs play such a significant role in end-users' experience of provisioning means it would not be appropriate to set a regulatory compliance boundary (a quality standard) using such measures.<sup>10</sup> There are significant elements of customer experience that are beyond Chorus' control.
21. The potential changes to customer satisfaction ID requirements noted by the Commission,<sup>11</sup> and supported by One NZ would require further consideration as part of any ID review process. As with all ID measures, it would need to be clear the benefits of proposed measures outweighed the cost of collecting and collating them, and that they advanced the purposes of Part 6. If such changes were being considered, one change to the customer satisfaction ID requirements that stakeholders might find informative would be to disaggregate customer satisfaction scores by RSP.

## Price path

22. Spark noted the draft decision implied a 17% increase in net allowable revenue for 2025 compared to 2024 and suggests this is a significant increase in telecommunications costs for end-users. However, this view is for allowable revenue only, is essentially notional, and does not reflect expected price changes by Chorus.

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<sup>9</sup> One NZ, *Submission on the draft decision on Chorus' quality standards and revenue path for the second regulatory period*, 15 August 2024, paragraph 11.

<sup>10</sup> Commerce Commission, *Chorus' price-quality path for the second regulatory period (2025 – 2028) – draft decision reasons paper*, 18 July 2024, paragraph 4.278

<sup>11</sup> Commerce Commission, *Chorus' price-quality path for the second regulatory period (2025 – 2028) – draft decision reasons paper*, paragraph 4.277

23. As Spark and the Commission will be aware, the fibre price changes to take effect on 1 January 2025 have already been consulted on and will be confirmed before the final PQ decision is published. The consulted price increases amount to considerably less than 17% and Chorus is contractually prevented from increasing prices for a product more than once every 12 months.
24. Spark requested the Commission provide guidance on expected price increases over PQP2 within the MAR that is set, how the prices may change based on variations in demand, and also suggested that the Commission could “curb any future price increases outside of the expected range”.<sup>12</sup>
25. The intent of a revenue cap is to set an overall allowance that is reasonable and gives Chorus flexibility within the cap to adjust prices in an efficient manner. It is outside the scope of the revenue cap decision for the regulator to specify the prices that would apply within the cap (noting there is separately regulated anchor product pricing). Regulatory guidance for, or restrictions on, price increases for products within the revenue cap would undermine the intent of the cap and add further complexity to the PQ path.
26. We agree with Spark that there is uncertainty relating to future fibre demand. The New Zealand broadband market is competitive, and our pricing will be influenced by the pricing of competing products, which is also uncertain. Spark appears to be seeking medium-term forecasts of the prices of products that compete with its own fixed wireless service. We would have serious concerns about publishing such confidential information.
27. Chorus is voluntarily proposing to delay recovery of more than \$250m of our revenue allowance in PQP2, with a prospect of recovery in future periods. In this environment the Commission should not be sympathetic to calls for further restrictions on pricing within the already-reduced cap.

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<sup>12</sup> Spark, *Submission on the draft decision on Chorus’ quality standards and revenue path for the second regulatory period*, 15 August 2024, paragraph 6.