

Determining Chorus' PQ RAB – Process update (29 June 2021)

Purpose

1. This paper updates interested persons on the process for determining Chorus Limited's (**Chorus**) transitional initial price-quality regulatory asset base (**transitional initial PQ RAB**), as an input into the final decision on Chorus' price-quality path for the first regulatory period (**PQP1**).
2. In response to submissions, we confirm our intention to have regard to stakeholder views on our August initial PQ RAB draft decision in setting the transitional initial PQ RAB at the end of the year, as well as our intention to narrow as far as possible any differences between the transitional initial PQ RAB and the final initial PQ RAB (that we will determine in 2022) that would be subject to the proposed wash-up.¹
3. We note however that providing earlier certainty in this way cannot be at the expense of ensuring our decisions appropriately meet the purposes of Part 6

Changes to our process for determining Chorus' transitional initial PQ RAB

Summary

4. In response to feedback from stakeholders in submissions on our consultation on Chorus' initial PQ RAB, we have changed our process to set the transitional initial PQ RAB for the purposes of our PQP1 final decision.
5. As a result:
 - 5.1 We will have regard to views on our August PQ RAB draft decision in setting the transitional PQ RAB at the end of the year (which flows into our PQP1 final decision).
 - 5.2 We also identify (in Table 1 below) which elements of the initial PQ RAB we intend to finalise this year. Our aim is to resolve all possible matters prior to the final PQ decision.²

¹ We have proposed this wash-up as part of a set of amendments to the Fibre Input Methodologies. This approach is still subject to consultation and may change in response to submissions on our draft amendments. References to our proposed process in this paper apply the IMs as we have proposed to amend them. However, where we change these proposed amendments, we may also need to reconsider the process.

² The exception to this is actual values that will not be available until after 1 January 2022.

6. However, this approach is dependent on the responses we receive in submissions on the draft initial RAB decision. Where matters are raised that cannot reasonably be resolved in the limited time available prior to the final decision, we would defer final resolution of these, and give effect to the final decision via the proposed wash-up mechanism.
7. We have changed the date by which we intend to make our final PQP1 decision from November 2021 to mid-December 2021 to help accommodate the views of stakeholders and facilitate these changes.

Background

8. Our initial PQ RAB draft decision in August will give our first assessment of Chorus' initial PQ RAB proposal and of the cost and asset allocation methodologies used. The initial unallocated RAB will then be rolled-forward through PQP1, with cost allocation reapplied.
9. We need to determine an initial PQ RAB figure by mid-December to feed into our final PQP1 decision.
10. A final decision on the initial PQ RAB will be made by the Commission in 2022. This time period is necessary because some parameters are forecasts and actual values will not be known until 2022.
11. However, we need to use an initial PQ RAB figure as part of our final PQP1 decision in mid-December 2021. Accordingly, we will set a transitional initial PQ RAB for this purpose.
12. Because of this timing issue, we intend to wash-up for the impact of the difference between the transitional and final initial PQ RABs on allowable revenue as part of the PQP2 reset.
13. We published a Process Update Paper (**PUP**) on 30 April 2021 providing an update on the process and timing we intended to follow in determining Chorus' initial PQ RAB.³
14. The process set out in the April PUP contemplated that stakeholder feedback on our August initial PQ RAB draft decision would be taken into account in our final initial PQ RAB decision in 2022 but would not feed into the transitional initial PQ RAB for PQP1.

³ Commerce Commission "Determining Chorus' first fibre price-quality path: Process update" (30 April 2021).

15. Since publishing this PUP, we have received feedback from stakeholders expressing concern that this process would not offer an opportunity for submissions to inform the transitional initial PQ RAB that feeds into PQP1.⁴
16. Stakeholders also expressed concern that the process surrounding such a key input was too uncertain and they were therefore unsure how much weight to place on a transitional initial PQ RAB.⁵ Chorus in correspondence with the Commission stated that we should “confine narrowly” the matters that may be revised between the transitional and final initial PQ RABs.⁶

Updated process

17. In response to this feedback, we have decided to have regard to submissions on our August initial PQ RAB draft decision in setting the transitional initial PQ RAB for the purposes of our final PQP1 decision. The changes to our process are outlined in Figure 1 below.
18. Having regard to those submissions will also help narrow the scope of any changes between the transitional and final initial PQ RABs.
19. This helps achieve the aim we set out in our September 2020 Process and Approach paper to provide certainty to Chorus and other stakeholders on the initial PQ RAB as soon as practically feasible.⁷
20. We have also changed the date we intend to make our final PQP1 decisions from November 2021 to mid-December 2021 to help facilitate the changes to our process.

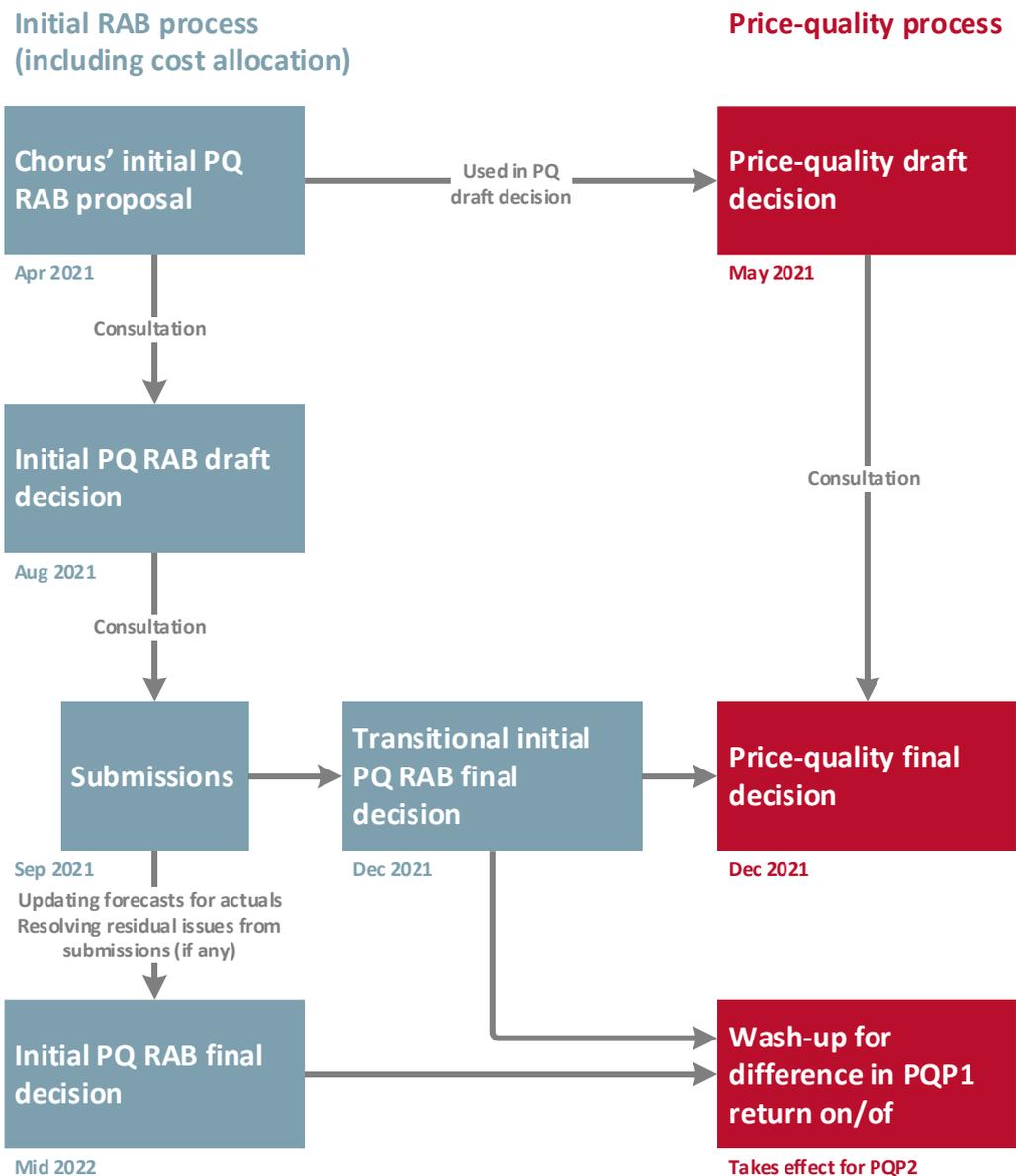
⁴ Chorus "Submission on Commission's consultation on Chorus' initial PQ RAB" (28 May 2021), page 6.

⁵ Spark “Chorus' initial price-quality regulatory asset base” (28 May 2021), paragraph 17.

⁶ Letter from Elaine Campbell (General Counsel, Chorus) to Andrew Riseley (General Counsel, Commerce Commission) regarding determining Chorus’ first fibre price-quality path: process update (20 May 2021), page 5.

⁷ Commerce Commission "Fibre information disclosure and price-quality regulation - Proposed process and approach for the first regulatory period" (15 September 2020).

Figure 1. Links between the initial RAB and PQ processes (updated)



Clarifying the matters that we expect to revisit between the transitional and final initial PQ RAB decisions and the scope of the proposed 'wash-up'

- The proposed wash-up under the IM amendments will expressly provide for the revenue impact arising from differences between the transitional and final initial PQ RABs to be addressed when the Commission resets the price-quality path for the second regulatory period commencing in 2025.⁸

⁸ We note that a wash-up would always be required to address the revenue impact of the differences between the forecast values and the actual values that would only become known in 2022.

22. We received feedback from stakeholders that we should clarify and narrow the scope of the proposed 'wash-up'.⁹ We agree with submitters that we should "lock-in" as much of the initial PQ RAB this year as possible, as indicated in Table 1.1 below.
23. This includes the most material cost and asset allocator decisions. Cost and asset allocators will also be used to allocate forecast expenditure. We intend to finalise the allocators we will use to determine forecast expenditure by mid-December 2021 in time for our PQP1 final decisions. These are generally consistent with the allocators affecting the initial PQ RAB.
24. We note that the scope of the proposed wash-up is dependent on the proposed IM amendment that we are consulting on with a view to reaching a final decision in August.¹⁰ We will provide an updated view of the proposed wash-up when we publish our initial PQ RAB draft decision in August.
25. We acknowledge that it is important to provide certainty for Chorus and other interested persons, such as investors, as soon as possible. We therefore agree that the initial RAB should be finalised as soon as possible. However, determining the initial RAB is a challenging process. It is important that we make a decision that we consider best gives effect to the purpose of Part 6 and to the promotion of workable competition where relevant, given its enduring effect on Chorus' future price-quality (PQ) determinations. Accordingly, providing earlier certainty cannot be at the expense of ensuring that our decisions appropriately meet the purposes of Part 6.

⁹ Chorus "Submission on Commission's consultation on Chorus' initial PQ RAB" (28 May 2021), page 6.

¹⁰ While we have an open mind as to alternatives to the transitional initial PQ RAB and amending the IMs to provide for a wash-up, we are not currently aware of any feasible alternatives.

Table 1. Timing of finalising RAB and cost allocation decisions

Matters that we are working to finalise by our final PQ decision (Dec 2021)	Matters that depend on future information from Chorus that will be finalised in 2022	Residual substantive issues that we will resolve in 2022
Actual capex, opex, allocator, and other values up to 2021	Actual 2021 values for unallocated capex for the initial RAB and financial loss asset	None proposed.
Direct attribution of assets, capex and opex to PQ FFLAS	Actual 2021 values for unallocated opex for the financial loss asset	
Allocation of opex to PQ FFLAS	Actual 2021 revenues for the financial loss asset	
Allocation of assets to PQ FFLAS	Actual 2021 allocator values	
Approach to capital contributions		
Approach to tax losses		
Allocation of pre-Dec 2011 assets		
Forecast cost and asset allocation for PQP1		