

Emerging views paper

21 May 2019

Have your say

Overview

We welcome your feedback on the topics contained in this paper. Your feedback is important to helping us design a robust and durable new regulatory framework for fibre networks in the long-term interests of all New Zealanders.

Submissions on the Emerging Views Paper are **open until 5pm on 16 July 2019**. Late submissions will only be accepted in exceptional circumstances with prior approval.

You also have the opportunity to make a cross-submissions until 30 July 2019 on points you agree or disagree with, as raised by other submitters.

Workshop

We intend to hold an industry workshop on 25 June 2019 (within the submission period) with stakeholders. This will provide an opportunity for stakeholders to clarify their understanding of our emerging views, options and issues, and to ask questions. If you are interested in attending the workshop, please email TelcoFibre@comcom.govt.nz.

We will also hold a separate session with a consumer focus group, made up of representatives from Consumer NZ, InternetNZ and TUANZ.

Using this form

This submission form is designed to help make it easier for you to submit on our work. It asks you to provide some submitter information first, before moving on to a list of topic questions contained in the paper. You are welcome to comment on as many or as few as you like.

Please download and save a copy of this form and send a PDF version to us once completed.

You are NOT required to use the form and are also welcome to email your submissions to TelcoFibre@comcom.govt.nz.

All submissions will be published on our website (guidance on confidential information is provided on page 2).

If you need a quick list of the emerging views covered in this paper to help prepare your answers, please refer to the [summary paper](#).

If you have further questions regarding this paper, please contact TelcoFibre@comcom.govt.nz

Thank you for your time in submitting on our paper. We look forward to reading your submission.

Your details

Name:

Company (if applicable):

Email:

Contact number:

Confidential information

We intend to publish submissions and cross-submissions on our website. This allows us to test all information received from stakeholders in a transparent way. We recognise that there may be cases where submitters wish to provide us with confidential information. Any confidential information should be clearly marked and preferably included in an appendix. When confidential information is provided in a submission, it is your responsibility to supply both a *confidential* and *public* version of your submission.

Submitters must also explain the basis for any claims that the information identified in their submissions is confidential. Where commercial sensitivity is asserted, submitters must explain why the publication of the information would be likely to unreasonably prejudice their commercial position or that of another person who is the subject of the information.

Please note that while we will carefully consider submitters' views on the confidentiality of information, it is ultimately for us, and not submitters, to determine whether or not there is sufficient reason to protect information from disclosure when weighed against the public interest in disclosure.

Legal framework

Covered on pages 15 to 18 of the summary document and chapter 1 of the Technical Paper.

Q1 What are your views on our interpretation of end-users of FFLAS and (a) whether or not persons can only be end-users when they are direct recipients of a telecommunications service rather than the recipients of a non-telecommunications service, and (b) when a retail service is “dependent” on a FFLAS?

Q2 Is the 2011 GPS on the incentives for businesses to invest in UFB infrastructure irrelevant to our decisions under Part 6?

Q3 Can we set IMs to support the matters in subparts 7 to 10 of Part 6, and not only IMs directly related to PQR and ID?

Q4 Are there any other key issues that you consider should form part of our legal framework?

Key economic principles

Covered on pages 19 and 20 of the summary document and chapter 2 of the Technical Paper.

Q5 Are there challenges involved in applying the FCM principle to FFLAS markets that mean we should not adopt this principle into the Part 6 regime? If so, please elaborate on your concerns with specific references to FFLAS market characteristics/dynamics that would make the application of the FCM principle impractical.

Q6 Do you consider there is an economic principle related to competition that would increase regulatory certainty and would inform our decision-making process over and above the purposes described in s 166(2)? If so, please elaborate on how such a principle would fit with our decision-making framework.

Q7 What are your views on the advisory panel's recommendation that there does not appear to be a strong case for an additional pricing principle beyond the pricing rules the Act imposes on Chorus? Please explain any areas where you disagree with the panel's advice and elaborate on how any pricing principle you propose would fit with our decision-making framework.

Do you have any other views on our economics principles?

Asset valuation

Covered on pages 22 and 23 of the summary document and chapter 3 of the Technical Paper.

Q8 What are your views on our approach to establishing the initial RAB values?

Q9 What are your views on our approach to the composition of the RAB?

Q10 Are any issues likely to arise from adjusting asset costs to take account of capital contributions or supplier revaluations?

Q11 What types of assets may require Chorus and the other LFCs to depart from GAAP? Please provide reasons for your view.

Q12 What are your views on the process for setting asset lives, and whether any limits on shortening asset lives are required?

Q13 What are your views on our approach to the amortisation of the loss asset and the period over which it should be amortised?

Q14 What are your views on our approach to the indexation of the RAB, including whether there should be a different indexation approach for the loss portion of the RAB?

Q15 What are your views on removing assets from the RAB due to deregulation, and the process for determining the asset value that is removed?

Do you have any other views on our approach to asset valuation?

Cost allocation

Covered on pages 24 to 25 of the summary document and chapter 4 of the Technical Paper.

Q16 What are your views on how costs should be allocated between FFLAS and other services?

Q17 What are your views on how costs should be allocated between FFLAS, and the potential conditions we have identified?

Q18 What is your view on whether some decisions relating to allocating costs between FFLAS could be addressed via cost allocation IMs to be set at a future date?

Q19 What level of granularity in terms of product specificity and/or geography is appropriate to support cost allocation in the identified conditions?

Q20 What is your view on whether fibre suppliers must apply ABAA to assets that are shared at the FFLAS vs other non-FFLAS services level when establishing the initial RAB?

Q21 What are your views on the allocation of costs that could be included in the past losses for the initial RAB?

Q22 What are your views on the choice of allocators for UFB initiative network investment which was used for non-UFB purposes?

Q23 What are your views on the use of proxy allocators and other approaches to simplify the past losses calculations?

Do you have any other views on our approach to cost allocation?

Cost of capital and risk

Covered on pages 26 to 28 of the summary document and chapter 5 of the Technical Paper.

Q24 What are your views on our approach to estimating a service-wide cost of capital, including a service-wide asset beta that will apply to all providers of FFLAS?

Q25 What are your views on CEPA's approach to estimating asset beta, particularly on the comparator firms selected and the data period which is used to estimate the asset beta?

Q26 Should we adopt a specific value for the TAMRP in the cost of capital IM for the Part 6 regime?

Q27 What are your views on our methodology for setting the risk-free rate?

Q28 What are your views on our methodology for setting the debt premium?

Q29 What are your views on using a TCSD?

Q30 What are your views on a long-term credit rating of BBB+?

Q31 What are your views on our approach to WACC for the losses calculation?

Q32 What are your views on our approach to WACC uplift and potential asymmetric risks?

Q33 Should a separate WACC for ID be specified and, if so, what should be the frequency and period be for ID WACC determinations?

Q34 How should the WACC be specified in the IMs for information disclosure (ID) and should a separate WACC should be specified for Information disclosure?

Do you have any other views on our approach to cost of capital and risk?

Quality dimensions

Covered on page 29 of the summary document and chapter 6 of the Technical Paper.

Q35 What are your views on the role of the quality IM within the wider regulatory framework for fibre? Please explain any additional contextual factors we should consider.

Q36 How detailed should the quality IM be to help regulated fibre providers estimate their expenditure requirements in order to meet the quality standards?

Q37 With reference to the provisions of the WSA and NIPA referred to below in Table 3 and Attachment D, what level of detail do you think is appropriate to include in the quality IM? Which aspects of these agreements do you think have or have not worked well?

Q38 What are your views on the role and function of the quality IM within the commercial environment for fibre? Please explain any additional contextual factors we should be considering.

Q39 How should the quality IM ensure regulated fibre providers supply the quality end-users and access seekers demand, considering the relatively rapidly changing demands and expectations?

Q40 How do the incentives to provide a level of quality that access seekers and end-users demand differ among Chorus and the other LFCs?

Q41 How should the quality IM account for the possibility of increased competition and the resulting changes to incentives faced by fibre providers?

Q42 To what extent do you consider the following quality dimensions can be controlled by wholesale fibre providers: ordering, provisioning, switching, faults, availability, performance, customer service?

Q43 What other quality dimensions can be controlled, in whole or in part, by wholesale fibre providers?

Q44 How detailed should the quality IM be? What are your views on which of CEPA's levels of detail is appropriate to use in setting the IM?

Q45 Should quality measures be included in the IM? Which quality dimensions should be linked to measures? How should these quality measures be specified?

Q46 Should some exceptions, such as when an end-user fails to attend a connection appointment, be included in the PQR quality standards or ID quality measures? In other circumstances would exceptions be more appropriate in the quality IM? Please provide any examples.

Q47 How should quality regulation reflect the different factors that affect service quality? What are your views on whether reporting requirements should be broken down by geographic areas, or types of end-users, access seekers or services?

Q48 Which quality dimensions are most important to end-users and access seekers?

Q49 What are your views on the quality dimensions suggested by CEPA: ordering, provisioning, switching, faults, availability, performance, and customer service? Should any dimensions on this list be added, changed or removed? What are your views on how these terms should be defined?

Q50 What are your views on CEPA's concept of the fibre service lifecycle and its applicability to all aspects of fibre quality? Should other aspects of quality such as network operations or network specifications be covered by the quality IM? If so, how?

Q51 How should the quality IM reflect "access to" and "interconnection with" fibre networks?

Q52 Should fibre providers' consultation with stakeholders be a quality dimension? If not, should the extent of consultation be addressed in a different way?

Do you have any other views on our approach to quality dimensions?

Capex IM

Covered on pages 30 and 31 of the summary document and chapter 7 of the Technical Paper.

Q53 What are your views on how we have identified the risk associated with expenditure, and the role of the capex IM in managing those risks?

Q54 What are your views on the three areas of focus for the content of the capex IM (Information requirements, evaluation criteria and timeframes & processes)?

Q55 What are your views on the three issues unique to fibre regulation that we have identified? Are there any others we should be considering?

Q56 What are your views on the need to vary our approach depending on the type of capex that we are assessing?

Q57 What are your views on not pursuing a total expenditure (totex) forecasting approach for the fibre regime at this stage?

Q58 What are your views on the options for additional expenditure efficiency incentives we have set out?

Q59 What are your views on our proposed approach for setting transitional arrangements for PQR in the first regulatory period?

Do you have any other views on our approach to the capex IM?

Treatment of taxation

Covered on page 32 of the summary document and chapter 8 of the Technical Paper.

Q60 Is presenting tax as a building block in its own right is the most transparent approach to presenting tax costs? Please provide the reasons for your view.

Q61 What are your views on adopting the tax payable approach?

Q62 What are your views on estimating debt costs using an assumed level of leverage?

Q63 Should prices be set for Chorus using a post-tax WACC? Please provide the reasons for your view.

Q64 Should the returns under ID be disclosed using a post-tax WACC? Please provide the reasons for your view.

Q65 What are your views on establishing the initial regulatory asset value using the lesser of the assets' actual tax book value established using IRD rules and the RAB?

Q66 Have tax losses from the fibre rollout been utilised by Chorus and the other LFCs to offset profits in other parts of the business or group, meaning that tax losses should not be carried forward or included in the calculation of initial losses? Please provide the reasons for your views.

Do you have any other views on our approach to the treatment of taxation?