

24 October 2019

Dear Stakeholder

Chorus' arrangements for an independent expert to scrutinise its capital expenditure for its first price-quality path

Chorus Limited (**Chorus**) has advised the Commerce Commission (**the Commission**) that it intends to appoint an independent expert to scrutinise its proposed capital expenditure (**capex**) for the period 2022-2024. Chorus will submit its capex proposal to the Commission before we set Chorus' first price-quality path under Part 6 of the Telecommunications Act 2001.

Chorus' request to the Commission

Chorus asked whether we would expect to help shape the appointment of the independent expert; for example, by entering into a tripartite deed with Chorus and the expert, similar to the deeds used for independent verifiers by Powerco Limited (**Powerco**), in its customised price-quality path application in 2017,¹ or Transpower New Zealand Limited (**Transpower**), in its capex proposal for its individual price-quality path being set next month.²

The Commission's response

We have told Chorus that because the process for setting the input methodologies (**IMs**) for use in the development of the price-quality path is underway, Chorus will need to be responsible for the entire process of appointing the independent expert. The Commission cannot be involved in the appointment of the expert or the preparation of the expert's report until the IMs have been finalised.

Further, for the same reason, we have told Chorus that we cannot provide any indication about the criteria that we might include in the IM for assessing capex, or how we might use any report by the independent expert in setting Chorus' price-quality path determination.

¹ Information on Powerco's customised price-quality path application can be found on our website: <https://comcom.govt.nz/regulated-industries/electricity-lines/projects/powercos-20182023-cpp>

² Information on Transpower's capital expenditure proposal can be found on our website: <https://comcom.govt.nz/regulated-industries/electricity-lines/electricity-transmission/transpowers-price-quality-path/setting-transpowers-price-quality-path-from-2020>

However, we have observed to Chorus that:

- the value of an independent expert and its resulting report is in providing rigorous scrutiny of the capex proposal that Chorus intends to submit. Our view is that Chorus should have a strong incentive to ensure rigour and independence on the part of the expert appointed;
- to the extent that Chorus has questions about the approach that the independent expert should take, the materials in the public domain about the arrangements put in place for the Powerco and Transpower independent verifiers would provide useful insight to the Commission's assessment of such reports in previous cases; and
- the necessity for the Commission to refrain from being involved in the appointment of an independent expert or the preparation of the expert's report before the IMs are finalised should not preclude Chorus or the expert from providing us with updates on the expert's report. These updates are most likely to be relevant during our stakeholder engagement on the process for setting the price-quality path, even when that engagement occurs before the final IM determination has been made.

We have also informed Chorus that this letter would be published on the fibre IMs section of our website, to provide full transparency to stakeholders about our approach to the independent expert.³

If you have any questions on this letter, or the Commission's process to set a price-quality path for fibre, please contact Thomas Jones, Chief Adviser at telcofibre@comcom.govt.nz.

Yours sincerely,

Vanessa Howell

General Manager, Regulation Branch (Acting)

³ Our fibre IM project page can be found on our website: <https://comcom.govt.nz/regulated-industries/telecommunications/projects/fibre-input-methodologies>