

7 July 2021

Patrick Strange
Chairman
Chorus New Zealand Limited

BY EMAIL

Dear Patrick

PART 6 IMPLEMENTATION

1. I refer to your letter of 18 June 2021 from Chorus' Board to our Chair, Anna Rawlings, and me. Anna and the members of Fibre Division have reviewed this response.
2. As you are aware, we are part way through the implementation of the new Part 6 regime for fibre services, which comes into force on 1 January 2022. The first stage of this process was completed in November 2020 with the determination of the Fibre Input Methodologies (**IMs**).¹ We are now in the process of applying those IMs to set a price-quality (**PQ**) path for Chorus and information disclosure requirements for all fibre providers. We have made a number of draft decisions on which we are seeking stakeholders' submissions. Further decisions will follow as we move through the final stages of the implementation process this year.
3. In our view, our package of fibre decisions best gives effect to the statutory objectives in section 166 of the Telecommunications Act (**Act**) in light of the information available to us at the relevant time. In making our decisions, we have had regard to promoting Chorus' incentives to innovate and invest, and competition in telecommunications markets where relevant, in the interests of consumers, and the dynamics of the markets for fibre services and telecommunications services more generally.
4. As we are in the process of consulting on our draft PQ decisions (**draft decisions**) for the first regulatory period (**PQP1**) we do not consider it appropriate to engage by correspondence on substantive aspects of our draft decisions. This letter accordingly only responds to the process points raised in your letter. We note that Chorus will set out its position on the substantive matters raised in its letter in its submissions on our draft decisions.

¹ The IMs were determined in two tranches. The core IMs were determined on 13 October 2020 while the IMs for determining the value of the financial loss asset were determined on 3 November 2020.

5. We further note that the Commission has a number of mechanisms (such as the deregulation review(s) under section 210 of the Act) available to take account of changes in the wider context after the initial implementation of the regime. Outside of that, any broader policy concerns with the regulatory regime should be raised with MBIE.

Chorus' desire for certainty on the initial PQ RAB

6. As indicated in my letter of 21 June 2021, we acknowledge the desirability of providing greater certainty regarding Chorus' initial PQ regulatory asset base (**RAB**) and we have made changes to our PQP1 process to achieve this. These changes are set out in our process update of 29 June 2021.² We are still considering the timing of the final initial PQ RAB decision in 2022 and will provide an update on this in due course.

The value of the initial PQ RAB

7. We recognise the role of the initial PQ RAB in relation to Chorus' opportunity to make a normal return on its pre-implementation date fibre investments. This formed part of our considerations when determining the IMs which apply to the setting of Chorus' initial PQ RAB. It will continue to form part of our considerations when we exercise our judgement when applying the IMs to set a value for the transitional initial PQ RAB for PQP1 and when we determine the final initial PQ RAB.
8. We have received Chorus' submissions on cost allocation, including the recovery of costs incurred to set up and operate Chorus as a stand-alone business. We will have regard to Chorus' views, together with the views of other submitters, when we make our draft decision on the initial PQ RAB in August 2021.

Draft PQ decisions declining incentive capex and opex

9. In making our draft decisions we applied the IMs and exercised our judgement in light of all of the available information. We are currently consulting on our draft decisions and have an open mind, including on the incentive capex and the opex we declined in the draft decisions. We look forward to receiving Chorus' submissions on these matters.
10. Further, as indicated in our draft decisions, we are willing to consider an individual capex proposal in respect of the incentive capex in parallel with our consideration of Chorus' expenditure proposal (without pre-determining any decisions), so that any decisions on such individual capex proposal can be made this year. We have also offered a working level meeting with Chorus staff to discuss the practical aspects of this process. However, as indicated in our draft decisions, we will need additional information on the incentive capex to approve such capex under either mechanism.

² Commerce Commission, *Determining Chorus' PQ RAB – Process update – 29 June 2021*.

Conclusion

11. Please note that, in the interests of transparency, we intend to publish your letter (including the attached report from New Street) and this reply alongside the publication of the submissions on our draft decisions that are due on 8 July 2021.

Your sincerely

A handwritten signature in black ink, appearing to read 'Tristan Gilbertson', followed by a period.

Tristan Gilbertson

Telecommunications Commissioner