

25 March 2025

Chorus Limited
Level 10 Aon Centre
1 Willis Street
Wellington 6011

Attention: Ian Ferguson
Head of Economic Regulation

By email: [REDACTED]

Notice to supply information to the Commerce Commission under section 221 of the Telecommunications Act 2001 – wash-up information

Background

1. Chorus Limited (**Chorus**) is subject to price-quality regulation under Part 6 of the Telecommunications Act 2001 (**Act**) in respect of the services specified in Regulation 6 of the Telecommunications (Regulated Fibre Service Providers) Regulations 2019. We, the Commerce Commission (**Commission**), have made a determination under s 170 specifying how price-quality regulation applies to Chorus during the second **regulatory period** (commencing 1 January 2025 until 31 December 2028, that we refer to as '**PQP2**').¹

Purpose of this notice

2. Under section 221(1)(c) and 221(1)(e)-(g) of the Act, we require Chorus to provide the information set out in Attachment A of this notice.
3. The information sought in this request is necessary to enable the Commission to carry out its functions and exercise its powers under ss 194-196 of the Act to determine price-quality paths for Chorus, and to apply the relevant Fibre Input Methodologies (**IMs**) in doing so (as required by s 175 of the Act).
4. To set Chorus' forecast allowable revenue for future regulatory periods (regulatory periods other than PQP2), the Commission requires wash-up information for each regulatory year of PQP2 from Chorus.

Responding to this notice

¹ Telecommunications Act 2001, s 170(1)(b).

5. Chorus must supply the information specified in Attachment A of this notice in accordance with the timeframes specified in clauses A4 and A5 of Attachment A.
6. Chorus must supply the information as follows:
 - 6.1 produce and provide the Commission with the information required by email to infrastructure.regulation@comcom.govt.nz (Attention: Manager, Fibre) with the subject line "Chorus – Response to section 221 Notice – wash-up information and marked for the attention of Manager, Fibre price-quality and information disclosure; or
 - 6.2 If this contains files that exceed the email attachment limits, please contact us and we will set up an external collaboration folder in SharePoint. In this case, when information is uploaded, notify the Commission by sending an email to infrastructure.regulation@comcom.govt.nz with the subject line "Chorus – Response to section 221 Notice – wash-up information" and marked for the attention of Manager, Fibre price-quality and information disclosure.
7. Narrative information is to be provided or published in searchable Adobe PDF format. Numerical information is to be provided or published in electronic form in an 'unlocked' Microsoft Excel file format, with formulae intact.

Variations, extensions and exemptions

8. The Commission may, on Chorus' application, grant Chorus a variation to the information requirements set out in this notice to account for any practical limitations on Chorus' ability to provide the specified information by the specified time.
9. For the purposes of paragraph 8:
 - 9.1 If Chorus applies for a variation, its application must:
 - 9.1.1 be in writing;
 - 9.1.2 explain why Chorus considers that a variation to the information requirements is reasonably justified having regard to the circumstances; and
 - 9.1.3 be made no later than 30 working days (as defined under s 5 of the Act) before the applicable time limit is due to expire.
 - 9.2 if the Commission decides to grant Chorus a variation, then:
 - 9.2.1 the approved form of the variation shall take effect by the Commission providing written notice of the variation to Chorus; and
 - 9.2.2 the notice effecting the approved form of the variation must specify the reasons for the variation.
10. The Commission may, on Chorus' application, grant Chorus an extension to the timeframes set out in clauses A4 and A5 of Attachment A of this notice.
11. If Chorus applies for an extension, its application must:

- 11.1 be in writing;
 - 11.2 explain why Chorus considers that an extension to the time limit is reasonably justified having regard to the circumstances; and
 - 11.3 be made no later than 30 working days (as defined under s 5 of the Act) before the applicable time limit is due to expire.
12. If the Commission decides to grant Chorus an extension, then:
- 12.1 the approved form of the extension shall take effect by the Commission giving or posting written notice of the extension to Chorus; and
 - 12.2 the notice effecting the approved form of the extension must specify the period of the extension and the reasons for the extension.
13. The Commission may, at any time, by way of written notice to Chorus:
- 13.1 exempt Chorus from any obligation in this notice, on such terms and conditions and for such period as the Commission specifies in the notice; and
 - 13.2 amend or revoke any such exemption.

Use of supplied information and confidentiality

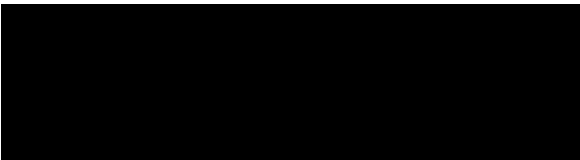
14. Where Chorus considers that any information it provides to the Commission in response to this notice is confidential or commercially sensitive, and that the Commission should not publish or publicly refer to any particular part of its response, Chorus must, in addition to the requirements in clauses A4 and A5 of Attachment A, and by the same due dates set out in Attachment A:
- 14.1 provide both an unredacted version, and a redacted version, with the information Chorus considers confidential/commercially sensitive removed;
 - 14.2 clearly mark the information as confidential or commercially sensitive (as applicable) in both the redacted and unredacted versions;
 - 14.3 provide a listed index of all information that Chorus considers confidential or commercially sensitive (as applicable); and
 - 14.4 give clear reasons why Chorus considers that part of the response is confidential or commercially sensitive (as applicable), and why the Commission should not publish or publicly refer to it.
15. If the Commission considers that it is necessary or desirable to publish or publicly refer to Chorus' response or a part of its response, the Commission would usually discuss with Chorus before deciding whether to do so.

16. Please note that all responses the Commission receives, including any parts that it decides not to publish, can be requested from it under the Official Information Act 1982. This means that if requested, the Commission would be required to release material (whether published or not) unless good reason existed under the Official Information Act 1982 to withhold it. The Commission would normally consult before releasing any material that Chorus has requested not be published.

Offences under section 103 of the Commerce Act 1986

17. Sections 15(1)(l) and 15(4) of the Act provide that s 103 of the Commerce Act 1986 (Commerce Act) applies to notices made under s 221 of the Act.
18. Section 103 of the Commerce Act provides that no person shall:
 - 18.1 without reasonable excuse, refuse or fail to comply with a notice under [section 221 of the Act];
 - 18.2 in purported compliance with such a notice, furnish information, or produce a document, or give evidence, knowing it to be false or misleading; or
 - 18.3 attempt to deceive or knowingly mislead the Commission in relation to any matter before it.
19. It is an offence to contravene section 103 of the Commerce Act and any person who does so is liable on conviction to a fine not exceeding \$100,000 in the case of an individual or \$300,000 in any other case.

Yours sincerely



Tristan Gilbertson
Telecommunications Commissioner

Attachment A Information required

- A1 Under sections 221(1)(c) and (e)-(g) of the **Act**, **Chorus** must provide to the Commission the information in this attachment.
- A2 **Chorus** must comply, where relevant, with Part 3 Subpart 1: Specification of Price and Revenues of the **IM determination** when responding to the requirements in this attachment.

Interpretation

- A3 Unless the context otherwise requires:
- A3.1 a word which denotes the singular also denotes the plural and vice versa;
- A3.2 unless stated otherwise, any reference to “includes” means “includes, but is not limited to”;
- A3.3 references to clauses or subclauses are to clauses or subclauses in this attachment; and
- A3.4 in this attachment, words or phrases in bold type have the following meanings:

A

Act	means the Telecommunications Act 2001;
actual allowable revenue	has the meaning given in the IM determination and is the amount calculated for a regulatory year in accordance with paragraph A6;
actual building blocks revenue	means the amount calculated in accordance with paragraph A7;
allocator value	has the meaning given in the IM determination

B

BBR model	means the document titled “Chorus NZL CRM MAR Model v72 (part ts, int TCSD) - CTO v11 O11 - Option 3 - Corrected (HY) v92f4 153A delink ID s21.xlsb” provided to the Commission on 23 October 2024;
------------------	--

C

capex allowance	has the meaning given in the IM determination ;
Chorus	has the meaning given in the IM determination ;
Commission	has the meaning given in s 5 of the Act ;
connection capex variable adjustment	has the meaning given in the IM determination ;
CPI	means: <ul style="list-style-type: none"> (a) subject to paragraph (b), the consumer price index stipulated for each quarter in the 'All Groups Index SE9A' as published by Statistics New Zealand; and (b) in respect of quarters prior to any quarter in which the rate of GST is amended after this notice comes into force, the same index as described in paragraph (a), multiplied by the Reserve Bank of New Zealand's forecast change in that index (expressed as a decimal) arising from the amendment;

D

director	has the meaning given in the IM determination ;
disclosure year	means the 12-month period ending on 31 December of the year the disclosure relates to or, if the term 'disclosure year' is combined with a year (for example ' disclosure year 2022 '), the 12-month period ending on 31 December of that year;

F

fibre asset	has the meaning given in the IM determination ;
--------------------	--

forecast allowable revenue has the meaning given in the **IM determination**;

G

GST has the meaning given in s YA 1 of the Income Tax Act 2007;

I

IM determination means the *Fibre Input Methodologies Determination 2020* [2020] NZCC 21, including any amendment in effect as of 1 January 2025;

independent auditor means a person who—

- (a) is qualified for appointment as auditor of a company under the Companies Act 1993;
- (b) has no relationship with, or interest in, **Chorus** that is likely to involve the person in a conflict of interest;
- (c) has not assisted with the preparation of the **wash-up information report** or provided advice or opinions (other than in relation to audit reports) on the methodologies or processes used in preparing the **wash-up information report**;
- (d) is neither professionally associated with nor directed by any person who has provided or assisted with the provision of the information specified in paragraph (c) above;
- (e) has the necessary expertise to properly prepare an assurance report required by clause A13; but
- (f) need not be the same person as the person who audits **Chorus's** accounts for any other purpose;

individual capex allowance	has the meaning given in the IM determination ;
initial SBBR	means the amount calculated in accordance with paragraph A8;
ISAE (NZ) 3000	means the <i>International Standard on Assurance Engagements (New Zealand) 3000 (Revised), Assurance Engagements Other than Audits or Reviews of Historical Financial Information</i> , issued by the New Zealand Auditing and Assurance Standards Board of the External Reporting Board in July 2014 and incorporating amendments up to the date of this notice under s 12(b) of the Financial Reporting Act 2013;

O

opening tax losses	has the meaning given in the IM determination ;
opex allocation model	means the documents titled: “BBM Opex Allocation v4.3 (one link) v17c decision opex fc D_R 153A - Comm alloc + AM v7b revised RT02 s9op1.xlsm” provided to the Commission on 23 October 2024;
other FFLAS income	has the meaning given in the PQP2 determination ;

P

pass-through cost	has the meaning given in the IM determination ;
PQ FFLAS	has the meaning given in the IM determination ;
PQ RAB	has the meaning given in the IM determination ;
PQP2 determination	means the <i>Fibre Price-Quality Path Determination [2024]</i> NZCC 34;

price means an individual fee or charge, in nominal terms exclusive of **GST**, for the provision of **PQ FFLAS**, and **priced** has a corresponding meaning;

Q

quantity means the amount of **PQ FFLAS** provided, which corresponds to the units in which each tariff, fee, or charge (or individual component of each) is **priced**;

R

RAB models means the documents titled:
 “Chorus NZL Core BBM v314_150v4 CRM IAV CC (two links) - 100 S18 O11 (HY) 10YP ID23 (D&R153A).xlsb”
 provided to the **Commission** on 23 October 2024;

regulatory period has the meaning given in the **IM determination**;

regulatory year has the meaning given in the **IM determination**;

regulatory tax asset values has the meaning given in the **IM determination**;

S

SAE 3100 means the *Standard on Assurance Engagements 3100 (Revised) – Assurance Engagements on Compliance*, issued by the External Reporting Board in March 2017 and incorporating amendments up to the date of this notice under s 12(b) of the Financial Reporting Act 2013;

second regulatory period means the four-year period beginning 1 January 2025 and ending 31 December 2028;

smoothed BBR means the building blocks revenue that is calculated after any smoothing has taken

place, calculated in accordance with paragraph A8;

T

total FFLAS revenue

has the meaning given in the **IM determination** and is calculated in accordance with paragraph A10;

U

unsmoothed BBR

means the building blocks revenue that is calculated prior to any smoothing taking place, calculated in accordance with paragraphs A9 to A9.7;

W

wash-up amount

has the meaning given in the **IM determination**;

wash-up information report

means an information report that meets the requirements in paragraph A12; and

working day

has the meaning given in s 5 of the **Act**.

Wash-up calculation requirements

- A4 Within 5 months after the end of each **regulatory year** in the **second regulatory period**, **Chorus** must provide for that **regulatory year** and all preceding **regulatory years** in the **second regulatory period** (if applicable):
- A4.1 the **actual allowable revenue**;
 - A4.2 the actual **total FFLAS revenue**; and
 - A4.3 the **wash-up information report**.
- A5 By 8 September 2028, **Chorus** must provide for **regulatory year** 2028 and all preceding **regulatory years** in the **second regulatory period**, demonstrably reasonable forecasts of:
- A5.1 the **actual allowable revenue**;
 - A5.2 the actual **total FFLAS revenue**; and
 - A5.3 the **wash-up information report**.

Calculation of actual allowable revenue

- A6 For the purposes of paragraphs A4 and A5, **Chorus** must calculate either the **actual allowable revenue** or a demonstrably reasonable forecast of the **actual allowable revenue** (whichever is applicable) as the sum of:
- A6.1 the **actual building blocks revenue**, calculated in accordance with paragraph A7;
 - A6.2 the actual **pass-through costs**; and
 - A6.3 the **wash-up amounts** specified in clause 3 of Schedule 2 of the **PQP2 determination**.

Calculation of actual building blocks revenue

- A7 For the purposes of paragraph A6.1, calculate the **actual building blocks revenue** for each **regulatory year** in the **second regulatory period** in accordance with Schedule 1 of the **PQP2 determination**, subject to the following substitutions:
- A7.1 replace each instance of forecast building blocks revenue or 'FBBR' with either the **actual building blocks revenue** or a demonstrably reasonable forecast of the **actual building blocks revenue** (whichever is applicable);
 - A7.2 replace the 'SBBR' value with the initial SBBR calculated in paragraph A8; and

- A7.3 update the actual **CPI** values for the relevant **regulatory year** in place of any forecast **CPI** values referred to in the **PQP2 determination** for the purpose of calculating **forecast allowable revenue** for that **regulatory year**, consistent with clause 3.1.1(11)(f) of the **IM determination**;
- A7.4 in calculating the change in **CPI** for **regulatory year 2025**, **regulatory year 2026**, **regulatory year 2027** and **regulatory year 2028**, when applying actual values of **CPI** in place of any forecast **CPI** values, the actual values should be calculated using the following formula:

$$\Delta CPI_t = \frac{CPI_{Mar,t} + CPI_{Jun,t} + CPI_{Sep,t} + CPI_{Dec,t}}{CPI_{Mar,t-1} + CPI_{Jun,t-1} + CPI_{Sep,t-1} + CPI_{Dec,t-1}} - 1$$

where –

$CPI_{q,t-n}$ is the **CPI** for the quarter ending in q in the 12-month period n years prior to **regulatory year t** .

Calculation of smoothed building blocks revenue

- A8 For the purposes of A7.2, calculate the **initial SBBR** as follows:
- A8.1 calculate the series of **unsmoothed BBR** for each **regulatory year** of the **second regulatory period** by applying the substitutions set out in paragraph A9 below to the **forecast allowable revenue** for each **regulatory year** specified in Schedule 2 of the **PQP2 determination**;
- A8.2 calculate the net present value of the series of **unsmoothed BBR** in paragraph A8.1 as at the start of the **second regulatory period**.
- A8.3 by varying the **initial SBBR**, solve for the series of **smoothed BBR** which satisfies the three following equations simultaneously:
- A8.3.1 $Smoothed\ BBR_{2025} = Initial\ SBBR \times (1 + \Delta CPI_{2025}) \times (1 + \Delta Q_{2025})$
- A8.3.2 $Smoothed\ BBR_{t+1} = Smoothed\ BBR_t \times (1 + \Delta CPI_{2025}) \times (1 + \Delta Q_{2025})$, in **regulatory years 2026, 2027, and 2028**; and
- A8.3.3 $NPV(Smoothed\ BBR_t)_{t=1}^4 = NPV(Unsmoothed\ BBR_t)_{t=1}^4$, as at the start of the **second regulatory period**.

where –

$Smoothed\ BBR_t$ is the **smoothed BBR** in **regulatory year t** ;

$Unsmoothed\ BBR_t$ is the **unsmoothed BBR** in **regulatory year t** ;

ΔCPI_t is the forecast change in the **CPI** in **regulatory year t** that was used in setting **PQP2**, and is set out in Table 1 below; and

ΔQ_t is the forecast change in **quantities** in **regulatory year t** that was used in setting **PQP2**, and is set out in Table 1 below.

Table 1: Forecast change in CPI and quantities used for revenue smoothing

	2025	2026	2027	2028
ΔCPI_t	2.45%	2.02%	2.00%	2.00%
ΔQ_t	0.00%	2.56%	1.96%	1.72%

Calculation of unsmoothed building blocks revenue series

A9 For the purposes of paragraph A8.1, apply the following substitutions to the **forecast allowable revenue** for each **regulatory year** specified in Schedule 2 of the **PQP2 determination**:

A9.1 update all input values sourced from the **RAB model** to reflect:

A9.1.1 the sum of actual **opening RAB** values of all **fibre assets** for the **PQ RAB** for the **disclosure year** that corresponds with the first **regulatory year** of the **second regulatory period**, as determined in accordance with clauses 2.2.5(3) and 2.2.6(1) of the **IM determination**,

instead of:

A9.1.2 the sum of forecast **opening RAB** values of all **fibre assets** for the **PQ RAB** for the first **regulatory year** of the **second regulatory period**, consistent with clause 3.1.1(11)(a) of the **IM determination**;

A9.2 update all input values sourced from the **RAB model** to reflect:

A9.2.1 the ‘annual benefit of Crown financing building block’ for the **disclosure year** that corresponds with that **regulatory year**, as determined under clause 2.4.10 of the **IM determination**,

instead of:

A9.2.2 The ‘annual benefit of Crown financing building block’ for the **disclosure year** that corresponds with that **regulatory year**, as determined under clause 3.5.11 of the **IM determination**, consistent with clause 3.1.1(11)(b) of the **IM determination**;

- A9.3 Update all forecast operating costs, forecast asset values, and allocator values sourced from the RAB model and Opex allocation model to reflect:
- A9.3.1 forecast **operating costs** and forecast **asset values** allocated to **PQ FFLAS** for that **regulatory year** by applying actual **allocator values** determined under clause 2.1.1 of the **IM determination** for the **disclosure year** that corresponds with the relevant **regulatory year**,
- instead of:
- A9.3.2 forecast **operating costs** and forecast **asset values** allocated to **PQ FFLAS** for that **regulatory year** by applying forecast **allocator values**, consistent with clause 3.1.1(11)(c) of the **IM determination**;
- A9.4 update the **capex allowance** inputs for the relevant **regulatory year** to include the value of any **individual capex allowance** determined in respect of that **regulatory year**, consistent with clause 3.1.1(11)(d) of the **IM determination**;
- A9.5 in respect of **regulatory year 2028**, the **connection capex variable adjustment** for the **second regulatory period** as determined under clause 3.7.21(1) of the **IM determination**, consistent with clause 3.1.1(11)(g) of the **IM determination**;
- A9.6 update the regulatory tax asset values to reflect:
- A9.6.1 the sum of **regulatory tax asset values** in respect of **PQ FFLAS** at the start of the **disclosure year** that corresponds with the first **regulatory year** of the **second regulatory period** as determined under clause 2.3.2(1) of the **IM determination**,
- instead of:
- A9.6.2 the sum of forecast **regulatory tax asset values** in respect of **PQ FFLAS** at the start of the first **regulatory year** of the **second regulatory period**, consistent with clause 3.1.1(11)(h) of the **IM determination**; and
- A9.7 update the **opening tax losses** to reflect:

A9.7.1 the **opening tax losses** in respect of **PQ FFLAS** for the **disclosure year** that corresponds with the first **regulatory year** of the **second regulatory period**, as determined under clause 2.3.3(3) of the **IM determination**,

instead of:

A9.7.2 the forecast **opening tax losses** in respect of **PQ FFLAS** for the first **regulatory year** of the **second regulatory period**, consistent with clause 3.1.1(11)(i) of the **IM determination**.

Calculation of total FFLAS revenue

A10 For the purposes of paragraph A4 and A5, 'Total FFLAS revenue' for a regulatory year is the amount calculated in accordance with the following formula:

$$\sum_i (P_i - D_i) \times AQ_i + AOFI$$

where –

i is each tariff;

P is the **price**;

D is any discount;

AQ is the actual **quantities**, or a demonstrably reasonable forecast of the actual **quantities**, whichever is applicable; and

AOFI is actual **other FFLAS income**, or a demonstrably reasonable forecast of **other FFLAS income**, whichever is applicable.

Supporting information, assurance and audit requirements

A11 For the purpose of paragraphs A4 and A5, **Chorus** must provide to the **Commission** schedules reflecting the **prices**, actual **quantities**, and actual **other FFLAS income** used to calculate actual **total FFLAS revenue** or a forecast of actual **total FFLAS revenue** (whichever is applicable), disclosed in an electronic format that is consistent with Microsoft Excel with the **wash-up information report**.

Wash-up information report

A12 The 'wash-up information report' must—

A12.1 state whether **Chorus** has completed the calculations as required by paragraphs A6, A7, A8 and A10 for the **regulatory year**;

- A12.2 state the date the statement was prepared;
- A12.3 for the purpose of paragraph A4 the wash-up information report for years 2027 and 2028 be accompanied by an assurance report meeting the requirements in paragraph A13;
- A12.4 include for any relevant report required under paragraph A4, any information reasonably necessary to demonstrate whether **Chorus** has complied with paragraph A4, including details of the calculations as specified in paragraphs A6, A7, A8 and A10, together with supporting information for all components of the calculation; and
- A12.5 include for the relevant report required under paragraph A5, any information reasonably necessary to demonstrate whether **Chorus** has complied with paragraph A5, including details of the calculations as specified in paragraphs A6, A7, A8 and A10, together with supporting information for all components of the calculation.

Independent auditor's report on wash-up information report

- A13 For the purposes of paragraph A12.3 of this notice, **Chorus** must procure an assurance report by an **independent auditor** in respect of the **wash-up information report** that is prepared in accordance with **SAE 3100** and **ISAE (NZ) 3000**, signed by the **independent auditor** (either in their own name or that of their firm), and that—
 - A13.1 is addressed to the **directors of Chorus** and to the **Commission** as the intended users of the assurance report;
 - A13.2 states—
 - A13.2.1 that it has been prepared in accordance with **SAE 3100** and **ISAE (NZ) 3000**;
 - A13.2.2 the work done by the **independent auditor**;
 - A13.2.3 the scope and limitations of the assurance engagement;
 - A13.2.4 the existence of any relationship (other than that of auditor) which the **independent auditor** has with, or any interests which the **independent auditor** has in, **Chorus** or any of its subsidiaries;
 - A13.2.5 If appropriate, a description of any significant inherent limitations associated with the evaluation of the compliance activity against the compliance requirements;

- A13.2.6 whether, in the **independent auditor's** opinion, as far as appears from an examination, the information used in the preparation of the **wash-up information report** has been properly extracted from **Chorus's** accounting and other records, sourced from its financial and non-financial systems; and
- A13.3 states whether (and if not, the respects in which it has not), in the **independent auditor's** opinion, **Chorus** has complied, in all material respects, with the **IM determination**, **PQP2 determination** and this notice in preparing the **wash-up information report**.