

Chorus Cross-submission on Draft Copper Withdrawal Code and Draft decisions and reasons paper

7 August 2020



OVERVIEW

- 1 This cross-submission addresses submissions on the Commerce Commission's (**Commission**) 20 May 2020 Draft Reasons Paper and Draft Copper Withdrawal Code (**Code**).
- 2 As set out in our submission, the purpose of the Code is to enable copper withdrawal while ensuring end-users are supported and well-informed as they make the switch from copper. The Code should provide for this transition without imposing unnecessary or unintentional operational complexity that could ultimately prevent withdrawal from taking place.
- 3 Through the UFB programme we have partnered with government to invest in fibre, which was described this week by Minister Faafoi as the 'gold standard' in internet connectivity.¹ We want to ensure as many end-users as possible are able to transition to it, and we've made significant gains in the last few years ensuring a great customer experience for our end-users, particularly with regard to the installation experience.
- 4 It is also worth reiterating that our plan is to begin withdrawal on a small-scale and targeted basis, with overall volumes that would be broadly within the normal range for fibre migration activity. This will both ensure a smooth experience for the industry and end-users and allow us to gain valuable information about how best to support end-users and pre-empt and mitigate concerns.

Ensuring end-users are well informed about copper withdrawal

- 5 While there wasn't enough time to review in detail the individual submissions from consumers that were released late in the cross-submission period, from an initial review it appears clear that there is some confusion from many of those submitters about where and how copper withdrawal will take place. In areas outside of Specified Fibre Areas (i.e. those without fibre available), the Code cannot be used to force withdrawal of copper services, and the status quo remains.
- 6 This confusion may also be exacerbated where RSPs are migrating customers off copper services for their own commercial reasons combined with inertia sales tactics. We suggest this may be an area where the Commission could use its independent role and provide clear information in its communications to help ensure that those end-users are well informed as to what constitutes actual copper withdrawal.
- 7 This is also part of the reason why in our submission we noted that we did not wish to have requirements to advertise copper withdrawal more widely than the actual geographic scope of our targeted withdrawal (which may be as small as a handful of lines on a single cabinet), as it risks unnecessary confusion and concern for those whom copper withdrawal is not actually occurring.

¹ "Ultra-fast Broadband programme hits major milestone with more than one million connections", Beehive – Minister Faafoi, (<https://www.beehive.govt.nz/release/ultra-fast-broadband-programme-hits-major-milestone-more-one-million-connections>), 6 August 2020.

Commencement of the Code

- 8 We disagree with suggestions made by some submitters that there is little downside to Chorus to delay the implementation of the Code to allow a longer implementation period for Retail Service Providers (**RSPs**) to comply with the 111 Contact Code. Being able to begin using the Code as soon as possible is an important part of us being able to gain insights and information about the best way to support end-users to make the transition from copper to fibre.
- 9 While we have undertaken a number of voluntary migration activities over the past few years, it is impossible to replicate the impetus of a mandatory withdrawal programme in the current environment where we are unable to refuse to continue to provide copper to existing users who do not wish to move to fibre.

Notice to RSPs

- 10 We note the comments from RSPs about their wish for more advanced notice and their request that the Commission require us to provide them with our internal forecasting for copper withdrawal.
- 11 We have strong incentives to work commercially with RSPs to facilitate withdrawal projects and to ensure that their priority consumers, for example vulnerable end-users or business end-users with continuity requirements, have a good customer experience in switching from copper to fibre.
- 12 With regard to forecasting, copper withdrawal is entirely at Chorus' discretion, and is not a required activity. We will formulate our final plans for withdrawal once we see the Commission's final Code, however our intention is to take a micro-targeted approach, particularly initially, as we test the Code processes – with our focus likely to be on cabinets with a low number of end-users remaining on copper, or particularly high fault rates.
- 13 The purpose of the Code is to ensure that consumers are protected and aware of their rights as they transition to fibre. Spark's concern with the proposed notice period is at odds with the approach that it has taken for its own PSTN withdrawal and migration off copper services, where we were only informed the day before the public announcement, despite arguably an analogous need to prepare, given that a substantial number of end-users may need to migrate to fibre requiring scheduling of fibre installations.
- 14 Spark's copper end-users are also only being given three months' notice of withdrawal of their copper services, rather than the six months provided for in the Code. This would suggest to us that six months is ample for consumers and RSPs to prepare for a withdrawal of services.
- 15 RSPs are free to undertake their own commercial activities and migrations as we have seen, particularly those who are also Mobile Network Operators. We therefore do not think that it is appropriate for one network provider to have to provide internal forecasts to another. Quite aside from the potential competition issues, it is unnecessary. The party with the most logistics and organisation to undertake migrations from copper to fibre is Chorus.

- 16 Requiring that internal Chorus forecasts be shared with RSPs as part of the Code goes well beyond the scope and is not required given our intention to work closely with RSPs and the wider industry on copper withdrawal, leveraging our existing positive working relationships and practices.