

Cross Submission on the Copper Withdrawal Code

6 March 2019



OVERVIEW

- 1 This cross-submission addresses submissions on the Commerce Commission's (**Commission**) 26 November 2018 letter requesting views on the scope of the Copper Withdrawal Code (**CWC**).
- 2 Significant investment has been made by both government and the private sector to support a massive upgrade of New Zealand's telecommunications infrastructure. This is because of a collective belief that New Zealanders would be best served by having access to world-leading connectivity wherever possible.
- 3 The amendments made to the Telecommunications Act 2001 (**Act**) support this transition in a number of ways, including by providing a mechanism to enable a smooth migration of end-users from copper to fibre where fibre is available.
- 4 There appears to be some broad consensus for the CWC on the following issues:
 - 4.1 It should be easy to understand;
 - 4.2 It should focus on key legislative requirements;
 - 4.3 The Telecommunications Carriers Forum (**TCF**) should be given a chance to draft the CWC first and adopt existing industry practices that work well, as appropriate;
 - 4.4 'Reasonable timeframe' depends on circumstances, and as such, shouldn't be overly prescriptive; and
 - 4.5 'Free to end-user' is limited to connections/installations.
- 5 In responding to other parties' submissions below we make the following points:
 - 5.1 The scope of the CWC should remain focused key legislative requirements and not act to proactively identify and resolve every issue that may arise.
 - 5.2 Industry should work together to find solutions for end-users who have issues with consent for fibre installations, however these remaining consent issues do not mean fibre is not available at the address.
 - 5.3 Connections should be progressed in a reasonable timeframe, noting that we have contractual requirements to ensure they are progressed in a timely manner, without requiring a specific number of days to be prescribed.

Scope of the code

- 6 Given the policy focus on ensuring end-users are supported, we agree with submitters who advocate for clear, easy to understand information being provided to end-users. We think the industry can work collaboratively to ensure a successful transition, and are open to discussing with retail service providers (**RSPs**) and consumer representatives what information/material is required and who may be best placed to provide it.

- 7 The CWC sets out minimum protections for consumers which we need to meet before we can withdraw certain copper services in specified fibre areas.¹ The CWC is not the place to develop specific service quality requirements for RSPs, as suggested by one submitter, or solving every single difficult case.
- 8 The CWC should instead provide a framework to assist with the resolution of issues. In addition, the most vulnerable customers will specifically be addressed through the development of the 111 code, and issues specific to them are best dealt with through that process.
- 9 Migrating customers onto fibre is part of our core business. Where possible we should use existing processes developed by industry that are working well, and these processes will continue to evolve and improve, for example the voluntary migration code currently being developed by the TCF.

Access to the fibre network

- 10 The goal is to move New Zealanders who can access fibre onto the best technology available, not to keep a duplicate network running for a declining number of end-users. We reinforce our view that 'access to a fibre service' in the context of the CWC should align with the well-understood 'premises passed test' applied by Crown Infrastructure Partners (**CIP**). This is outlined further in our 15 February 2019 submission on Specified Fibre Areas.
- 11 As we outlined in our original submission, legislative changes to the consent and land access arrangements have already reduced the number of issues we are facing around access. There are also emerging technological solutions, e.g. WiPON², which might bridge the gap while more permanent solutions are developed, to ensure as many people as possible are able to get the benefits of faster broadband.
- 12 As an innovative, technology-based industry we should look to address the minority of fibre access issues through this lens, rather than defaulting to maintaining the status quo. This is why we suggest an operations manual should be used, enabling us to set out the detail of processes and allow updates as those processes improve and technology evolves.

Connections within a reasonable timeframe

- 13 There is some consensus in keeping the term 'a reasonable timeframe' for connections, which is well understood within the industry and in legislation, rather than using an overly prescriptive approach. This remains our preferred approach. Timelines for fibre installations are addressed contractually, and industry norms provide good guidance for what would constitute a reasonable timeframe.

¹ Please refer to our 15 February 2019 submission on Specified Fibre Areas for an explanation on how the SFAs and CWC work together.

² "Chorus trials gigabit wireless solution for fibre lead-ins", <https://company.chorus.co.nz/chorus-trials-gigabit-wireless-solution-fibre-lead-ins>, Chorus, 13 February 2019.

- 14 If we provide notice that we intend to withdraw copper in a specified fibre area, we will want to migrate end-users to fibre in a timely manner (and have sufficient incentives to do so). Our commercial incentives here align with the interests of RSPs and end-users. It wouldn't make sense for Chorus to switch off a network that a substantial number of end-users were still reliant on (and paying for) without having transitioned those customers onto the fibre network.
- 15 It's also worth noting our continued work to ensure connections happen in a timely manner and our efforts to improve our service for our customers and end-users. We recently announced 50 percent of fibre installations are being completed in a day – and we have a goal to get that to 75 percent by June this year.³

Supporting migration with good information

- 16 We share the view of consumer-focused groups that end-users should receive helpful, easy to understand information on the process and benefits of moving to fibre. The strong uptake of fibre to date suggests that a majority of customers see the benefit in shifting to a superior technology at a similar price.
- 17 We will continue to work constructively with consumer groups and RSPs to help end-users get the information they need, when they need it, to successfully transition to fibre.

³ "50 percent of Chorus fibre installations completed within a day" <https://company.chorus.co.nz/50-percent-chorus-fibre-installations-completed-within-day>, Chorus, 18 January 2019.