

**Submission
by**

R W M Dowler

To the

Commerce Commission

On the

Marketing Telecommunications Services Open Letter

August 2021

Introduction

Thank you for the opportunity provided to deliver comment on the Commerce Commission consultation on the Marketing Telecommunications Services Open Letter.

I am delighted to see that the Commission is intending to implement a form of Code applicable to the retail providers of telecommunications services, noting that this was my suggestion and request in my submission dated November 2018, resubmitted in January 2021, and copied in again at the end of this submission.

I note the comment in the Commission open letter that “The industry has expressed a general preference for less formal action from the Commission in the first instance.”

Of course the industry has expressed such a preference, but I submit that the practices demonstrated by the industry, combined with the high level of consumer complaint, mean that the Commission has no basis upon which to proceed with the preference expressed by industry.

Any Code introduced should, in my view, be mandatory and be able to be supported by the full force of the Commission’s powers in addressing any breaches. Anything less simply permits industry participants to demonstrate their disdain for regulation and towards consumers in continuing to promote limited solutions that may not be in the best interests of consumers.

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On the

Copper Withdrawal Code

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November 2018

(Resubmitted in January 2021 in response to a request for feedback on improving retail service quality for telecommunications consumers)

Introduction

Thank you for the opportunity provided to deliver comment on the Commerce Commission consultation regarding the development of a Copper Withdrawal Code related to Chorus.

Noting the Commission's interest in hearing from consumer groups, you may consider this submission as being from such a consumer group, or at the very least from someone who represents wider consumer interests, with the submission being based on my personal experience of dealing with retail telecommunications groups.

I also note from the just released Consumer Issues Report for the 2017-18 year that, "retail telecommunications remains the most complained about industry."

Submission Content

I support the proposal to develop a Copper Withdrawal Code to regulate Chorus to provide a degree of consumer protection at the time that copper phone lines are to be removed.

However, while I consider it necessary to provide a Code in relation to the practices that Chorus adopt, I do not consider such a Code to be sufficient to deliver to the Commission's stated objectives.

I submit that there is little point to introducing such a Code applicable only to Chorus when consumer interaction relating to telephone and related services occurs via the retail telecommunications groups. The consumer protections that the Commission is focused upon delivering via the Code will only ever be achieved if and when those retail telecommunications groups are also brought within the provisions of such a Code, or via similar provisions through some other regulatory mechanism that demands from and imposes appropriate conduct on such retail telecommunications groups.

From my personal experience, it is clear that the telecommunications groups are, at times, deliberately avoiding offering fibre replacement for copper to consumers, even when fibre is available, where the telecommunications entity involved has an alternative offering that provides additional benefits to the telecommunications carrier, even if at greater expense to the consumer.

Recent media reports relating to Vodafone pleading guilty to nine charges brought by the Commerce Commission over Vodafone's "FibreX" service support this contention.

I submit that any such retail telecommunications group that has the capacity to offer a fibre connection should include information about the available fibre alternative, including costs, in a similar way to the Code requirements suggested for imposition on Chorus at the time that the copper service is being withdrawn. Such information on the fibre service should be in addition to any other offer that such retail communications group may wish to make to a consumer.

I now refer to my e-mails to the Commission variously dated 7 August, 7 November and 13 November 2018 regarding my interactions with Vodafone, Chorus and Spark covering the period since installation of a fibre line at my residence in March 2015.

In summary, in 2015 there were two copper lines attached to my residence, one for business purposes and one for personal use. I sought to have both lines changed to fibre. At various times over the intervening period, both Vodafone and Spark informed me that I could not have both lines replaced with fibre, albeit my contact with Chorus has always resulted in me being informed that there was no technical reason why I could not have two fibre lines.

In the event, as neither Vodafone nor Spark would assist with arranging for two fibre lines, I arranged for my business line to be changed to fibre in 2015, retaining a copper line for personal use.

As covered in my correspondence with the Commission earlier this month, Vodafone communicated with me in July this year, stating, "With Spark announcing they'll be closing the PSTN Network that's used for your home phone, we want to make sure you're well set up for the future." The letter then went on to state, "That's why next month we're moving you from your old copper phone service to Home Phone Wireless for just \$49.99 a month."

I consider that this advice from Vodafone to be misleading in a number of ways, as follows:

- There is a clear implication that the Spark changes to the PSTN impact the existing copper service. I understand this implication to be false, as the changes being made by Spark simply do not impact in any way the continuation of the copper service to an individual consumer.
- There is also a clear implication that the change to wireless is being imposed by Vodafone and that I do not have a choice to continue with the copper service, which I also consider to be false, at least at a technical level.
- In the event, the first monthly account included charges totaling \$59.98, not the \$49.99 a month stated in the offer.
- Finally, I consider that Vodafone misled me by not offering me a second fibre line at the time of advising me of the proposed change to wireless being imposed by Vodafone, despite such a fibre solution being technically available and such a fibre service also being a cheaper alternative for me than the wireless option that the correspondence implied I had to take.

The availability of the cheaper alternative second fibre line has subsequently been proven, as my correspondence with Vodafone criticising the poor consumer service delivered to me has resulted in an agreement that the remaining copper line, since converted to wireless, will finally be changed to a second fibre line installation without any installation cost and with the monthly cost being less than either the copper or wireless options.

I acknowledge the good outcome that it appears will finally be achieved for me, hopefully early in the New Year, but I am less than impressed with the effort that I had to expend to achieve it. I am therefore focused via this submission in proposing that the Commission ensure that the Code or other regulatory mechanism assist in helping consumers more generally avoid a similar experience.

It is also clear from my experience that the practices of the retail telecommunications groups are focused on delivering profits to the phone companies, often at the expense of consumers. This sounds somewhat reminiscent of the findings of the Australian Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry and the findings from the review of banking recently conducted in New Zealand by the Reserve Bank of NZ and the Financial Markets Authority.

To quote from the Australian Royal Commission's interim report executive summary, "Why did it happen? Too often, the answer seems to be greed – the pursuit of short term profit at the expense of basic standards of honesty." I submit that the same comment can be made about the actions of retail telecommunications groups in New Zealand.

You will therefore not be surprised to learn that I have corresponded with the Minister of Commerce and Consumer Affairs this month suggesting that this government has an opportunity to make a real difference, not by focusing on the banks, but by looking beyond to determine what the regulatory environment around conduct should be for commercial enterprises in general.

By the way, where was the Commission involvement in the NZ banking review, noting that the Commission is responsible for the oversight of the Credit Contracts and Consumer Finance Act? I submit that I do not wish to see a similar absence of involvement from the Commission in relation to the clearly inappropriate practices of retail telecommunications groups in New Zealand.

Confidentiality

No part of this submission is required to remain confidential. Instead, I welcome the eventual publication of this submission by the Commission as a means of making publicly available the details of my personal experience of the practices of the retail telecommunications groups, with the objective of supporting development of better conduct from the retail telecommunications groups and better consumer outcomes longer term.