



# Copper Withdrawal Contact Code

## Spark Cross Submission

Public Version

Commerce Commission

7 August 2020

## Introduction

1. We welcome the opportunity to provide comments on submissions to the Commerce Commission's draft Copper Withdrawal Contact Code. Our comments mainly relate to points raised by Chorus in its submission.
2. Spark is keen to discuss our submissions further at the Commission's industry workshop.

## Balancing Consumer Protections With Business Incentives

3. We consider the Code requirements taken as a whole strike the right balance between consumer protection and commercial practicalities. The purpose of the Code should be to ensure that existing copper customers understand what is proposed, and that those who want a fixed line service can move their service to another technology before the copper is removed. On this basis the Code provides appropriate protections for customers.

## Forecasting Is Essential For RSPs

4. We welcome Chorus' clarification that withdrawal is expected to be centred around individual cabinets. Cabinets typically serve around 200 lines each, although we expect many of these lines will have already migrated to other technologies.
5. However, to be useful we need to understand the number of simultaneous cabinets and the number of copper lines affected in each area. As we noted in our submission it is important that RSPs have an early understanding of the volumes and locations where Chorus will be implementing the CWC. We need time to:
  - Source CPE (fibre modems, fixed wireless modems) from our suppliers;
  - Source 111 Contact Code solutions (such as mobiles and battery backup devices) from our suppliers;
  - Ensure we have the necessary contact centre resource to deal with queries and plan changes from customers; and
  - Prepare our own customer communications for after the first Chorus notices have been sent to customers.
6. Forecasting allows RSPs to prepare and scale their resources and ultimately provide their customers with a better experience when moving off copper.
7. Chorus claims it is reluctant to provide forecasting information as it fears it will be inaccurate. We accept that accurate forecasting will be tricky for Chorus in the short term as it develops its copper withdrawal plans and learns from experience. But this is not an acceptable excuse for providing no forecasting at all. Instead we would like to see Chorus obliged to provide comprehensive forecasting, while recognising these will only be provided on a best effort basis.

8. Chorus removing copper will drive cost into our business as we take steps to ensure a good customer experience during the transition. It is absolutely appropriate therefore that Chorus provides forecast information to help us prepare for this.
9. In addition to the forecasting we also need at least a months' warning from Chorus before the first notice is sent to a customer. This is to ensure we have sufficient lead time to prepare our contact centres for increased demand from affected locations and to finalise and send our own customer communications.

### We Disagree That Chorus Should Be Able To Forcibly Remove Copper From Consumers Who Cannot Get Connected To Fibre

10. Chorus argues that it should be able to disconnect copper from customers where fibre is available, but the premise cannot be connected. The example given is the lack of consent from a neighbour due to a land access dispute.
11. This goes to the heart of the earlier discussions on how to define SFAs and whether that definition should be linked to the individual premise's ability to actually connect to fibre. The decision was to define the SFA as an area where fibre was available, without the need to check each individual premise for whether it can be connected. The CWC should then only apply where a premise can be physically connected as that is the primary protection for customers.

### The Architecture Of The Copper Access Network Is Not Relevant

12. Chorus notes that some cabinets have a mix of lines inside and outside the Specified Fibre Area (SFA). This is for Chorus to manage as the CWC is a per-premise obligation, with the trigger being whether fibre is available to be connected at that premise.
13. As noted above, we consider the CWC is the safety net to ensure customers who want to continue with a fixed line (voice and/or broadband) can actually be connected to a fibre service before the copper can be removed.
14. If Chorus wants to remove copper lines from a cabinet then it needs to ensure fibre is available in those areas before copper can be removed. It can do this by rolling out fibre in these areas or working with another LFC.

### Expedited Process For Urgent Copper Removal

15. We are not convinced there will be many situations in which Chorus needs to urgently remove or replace its copper network. If core equipment were lost as part of an accident or natural disaster, we suspect Chorus would patch up the network as quickly as possible using existing technology while it works on a longer-term more permanent solution. We consider it unlikely that Chorus would be able to do an immediate fibre installation for every copper premise in a neighbourhood if a lorry crashed into a cabinet for example.

16. Even if Chorus had the tech resource available for multiple new fibre connections, some installations would take weeks or months if they involve land access issues or difficulties with landlords. All this suggests to us that Chorus will work quickly to immediately restore the status quo using existing technologies, even if just on a temporary basis.
17. Once the network is restored, albeit temporarily, Chorus can then start the formal CWC process and send out its 6 month notice. We accept that Chorus should be excused from its forecasting requirements in these situations.
18. However, there may be a small number of isolated situations where urgent, immediate replacement of technology is required due to unforeseen events. In these limited situations it may make sense to have an expedited process which still provides protections for impacted premises.
19. Customers in these areas will still need continuity of service. They will need to contact their RSP to quickly receive an alternative non-copper voice and/or broadband services, and there is a risk that vulnerable customers could be left without service for an extended time.
20. We suggest the Code includes an expedited process, for exceptional use only, which the Commerce Commission must authorise on a per case basis.
21. The key features of this process should include:
  - The process can only be used where a fibre alternative is available (Specified Fibre Areas).
  - The use of the process must be approved by the Commerce Commission and Chorus must demonstrate that a temporary reinstatement of the copper network is not viable in the particular situation, and that the situation was unforeseen.
  - Chorus must provide details of the number of premises and show that alternative technology solutions are available for these customers to connect.
  - Chorus must be required to door knock every impacted customer within 24 hours of the outage to make sure they fully understand the situation and that they must contact their RSP. As part of its door knocking Chorus should hand deliver a written notice and information informing them of the situation and the need for them to urgently contact their RSP.
  - Chorus must pay particular care and attention to any vulnerable customers and must inform their RSP of their suspected vulnerable status.
  - Chorus will need to work with RSPs to manage customers with in-flight orders during the period, including customers changing provider, moving address (both into and out of the area) and dealing with landlords where requested by the tenant etc.

- Chorus should revisit every household after another 2 weeks and again after 4 weeks to ensure that each customer who wants to continue their service has found a suitable alternative.
  - After 4 weeks Chorus must report to the Commerce Commission on the solutions in place for each customer.
22. Chorus should not be able to use the expedited process for BAU requests from third parties which impact its network: An electricity company should be able to provide Chorus with sufficient notice of a planned undergrounding project so that Chorus can follow the standard copper withdrawal process. We expect that electricity companies will understand that their activities (such as undergrounding) on shared poles will have implications and will impact RSPs and customers of telecommunications services. We also expect they will plan these activities some time in advance of undertaking them. Chorus should be required to refuse non-urgent access network activity which could impact the copper access network unless the third party allows enough time for Chorus to comply with the CWC process.

#### Exclusion of Voice-Only Copper Connections From The CWC

23. Chorus argues that copper services it offers on a commercial basis should be excluded from the scope of the CWC. As we noted in our main submission, Spark buys a commercial baseband variant from Chorus as we are unable to technically consume the UCLFS product. This was true at the time the Act was amended to incorporate a Copper Withdrawal Code.
24. Chorus' approach would exclude all of Spark's voice-only customers from the process, and from the ability to escalate complaints to the TDRS. It asks the Commission to conclude that Parliament's intention was for copper withdrawal protections to apply to only a small subset of copper customers and to exclude almost all voice-only customers – the group of customers that are arguably most vulnerable to copper withdrawal. In our view it cannot have been the intention of the legislation to exclude this particular group of consumers who are likely to need the most help with their transition.
25. We continue to be of the opinion that the Copper Withdrawal Code should apply to all copper lines, regardless of the input product that the customer's RSP is using. Otherwise customers will be subject to a confusing array of different withdrawal processes with different levels of consumer protections.

#### List Of Information Required From RSPs About Their Customers

26. While we support a stated list of the information that Chorus can request from RSPs, RSPs should not be required to provide the end-user's copper product name to Chorus. All Chorus should be saying to our customer is that the copper network is being removed and they need to contact their RSP to discuss their options. Chorus does not need the retail product name for this.

27. Any information we do provide to Chorus must be provided on a best efforts basis as we cannot guarantee the quality of the information (much of which will have been provided by the end user themselves).

### Dispute resolution for the CWC

28. Chorus says that it has been unable to reach an agreed position with the RSPs on the terms of Chorus joining the TDRS. This is misleading. There has been no real attempt at reaching an agreement by Chorus. Chorus simply told industry what it was proposing and did not enter into a more detailed discussion when RSPs proposed a different approach.
29. Our view is that Chorus should be a full member of the TDRS for general consumer disputes as well as CWC disputes. Customers who want to complain about an issue which is clearly caused by Chorus are unable to raise their complaint directly. For example if a Chorus tech causes damage to a customer's property during an installation, then today the customer has to complain to their RSP first and the RSP has to first attempt to resolve with Chorus and then escalate. This is inefficient and a poor customer experience and resource intensive for the RSP.
30. We invite the Commerce Commission to consider this issue in more detail as part of its review of the TDRS scheme. We would be happy to share specific cases we have seen with the Commission as part of the review.

### Consumer Feedback

31. We have not had time to fully consider the 185 page Copper Withdrawal: Consumer feedback document published by the Commerce Commission the day before cross submissions were due. However we do have some comments on the issues highlighted in the summary infographic.
32. We agree that the consumer's primary contact should come from the RSP. The customer has an ongoing relationship with their RSP and they will need to have a conversation to determine the best plan for them to move to.
33. Chorus' contact with the customer (and their landlord etc) should just be the minimal required to notify the customer that they are withdrawing copper and that they must contact their RSP to agree next steps. Anything additional from Chorus (such as comments on what technologies are available etc) will just confuse customers.
34. RSPs should not be required to carry out Chorus' obligation of notifying other parties about the copper withdrawal itself - it is for Chorus to contact monitoring service providers, civil defence and emergency services etc to tell them copper is being removed. RSPs' contact with the end customer will be the BAU process which will only include those parties necessary for the installation of their new service.

35. We agree with consumers that Chorus needs to set up a neutral helpline to explain to customers what it is doing and why customers need to talk to their RSP to move their service from copper.