



Specified Fibre Areas and Copper Withdrawal Code

Cross Submission to Commerce Commission

PUBLIC VERSION

1st March 2019

ABOUT VOCUS

1. Vocus New Zealand is the third largest fixed line operator employing over 600 staff In New Zealand. Our retail operation includes a number of challenger brands - Slingshot, Orcon, Flip, and 2Talk. We are also an active wholesaler of services including access, voice and broadband over both fibre and copper.
2. Vocus has made significant investments in New Zealand. We are the largest copper unbundler with a presence in over 200 exchanges throughout New Zealand. In addition we operate 4,200km fibre optic network transits between virtually all major towns and cities, and connects directly into all major peering exchanges.
3. Our customers in New Zealand range from government agencies, integrators, large corporate, SME and residential households. We are committed to New Zealand's fibre future.
4. Vocus is committed to New Zealand and is one of the few large NZ telecommunications companies to base all its customer service call centres here in New Zealand rather than outsourcing its customer service operations overseas.
5. Vocus Group is one of the fastest growing telecommunications companies in Australasia and a major provider of voice, broadband, domestic and international connectivity and data centers throughout New Zealand and Australia.
6. Vocus welcomes the opportunity to make this brief cross submission on the Commission's 'Copper Withdrawal Code' and 'Specified Fibre Areas' issues papers. This submission covers both as the two issues are inextricably linked.
7. If you would like any further information about the topics in this submission or have any queries about the submission, please contact:

Johnathan Eele
General Manager Commercial and Regulatory
Vocus Group (NZ)

Johnathan.Eele@vocusgroup.co.nz

RSPs ARE HIGHLY INCENTIVISED TO MAKE THE TRANSITION QUICK AND EASY

8. RSPs support a timely and orderly withdrawal of copper. Whilst Chorus is the prime beneficiary of the copper withdrawal, RSPs don't want to support two parallel sets of services longer than they have to, nor do they want customers on a service that has a 'used by' date.
9. Chorus' prime concern will be their shareholders. RSPs' prime concern will be the retention of their key asset – their customer base. As such they will continue to be proactive in migrating their customer to fibre, a service with a long-term future.
10. Vocus is concerned that the approach Chorus is advocating in its submissions on the Specified Fibre Areas (SFA) and Copper Withdrawal Code (CWC) has a high risk of causing issues for RSPs to the detriment of consumers during the period from the declaration of an SFA to the final physical withdrawal of copper from the area (the 'transition phase').

CHORUS' APPROACH RISKS CAUSING RSP AND CUSTOMER ISSUES

11. Summarising Chorus' proposed approach highlights a very concerning 'mindset' on behalf of the monopoly provider.

Chorus SFA submission	RSP concerns
Chorus propose the SFA is defined in line with the 'premises passed' definition applied by CIP rather than 'able to be connected'.	Premises passed is the 'lowest bar' test and is not the same as 'able to be connected'. The lower the test for SFA the longer the notice period needed to access seekers, the more reliance on the CWC AND regulation and the higher risk of customer issues.
Chorus propose that 75% of New Zealand is declared an SFA on 1 st January 2020	RSPs do not have the resources to cope with a flood of migrations from a 'National shutdown'. If RSPs can't handle the migrations smoothly then customers will churn to another provider. Driving churn between providers ON TOP OF migrations will result in focus dilution and a downward spiral in customer experience.
Chorus suggest that once an SFA is declared policy is that existing copper services will no longer be subject to any price or quality regulation.	All other submitters (including LFCs) disagree with this interpretation of policy. The effect, in combination with the issue above, would be that 75% of New Zealand would not be subject to any form of copper regulation from 1 Jan 2020. <u>Predictability and stability of existing copper services during the 'transition phase' is critical for RSPs.</u> Chorus' interpretation of policy is to leave the quality and price to the commercial whims of a monopoly

	<p>network operator. This could result in Chorus driven changes to existing copper services that: -</p> <ul style="list-style-type: none"> - Divert RSPs' resource and focus from fibre migrations if Chorus tinker with quality and price of existing copper services. - Drive churn between RSPs which further compounds resource and focus issues (a negative spiral) for the industry as a whole. - Cause competitive distortions as a result of different RSPs having a different product mix (unbundling / UBA / Fixed Wireless – see <i>Vocus SFA submission para 13</i>).
Chorus CWC submission	RSP concerns
<p>Chorus propose the access test in the CWC should align with the CIP 'premises passed' definition (<i>para 18 Chorus CWC submission</i>)</p>	<p>Policy is clearly that an end-user should have fibre available <u>and be able to connect</u> to fibre. If customers are unable to be connected the onus should be with Chorus to address the issue where practical as they are the prime beneficiaries of the withdrawal.</p> <p>However, a dispute process should be available to Chorus to deal with specific instances.</p>
<p>Chorus looking to limit the scope of 'no cost to end-users' for retirement villages, body corporates and others (<i>para 24 Chorus CWC submission</i>)</p>	<p>The policy intent should be inclusive of these groups, albeit a dispute process should be available to Chorus to consider specific circumstances and resolve appropriately. A home owner who is part of a body corporate shouldn't be treated differently as a matter of default.</p>
<p>Chorus are proposing that they communicate directly with end-users (<i>para 31 Chorus CWC submission</i>)</p>	<p>End User communication should be done through RSPs or with RSP consent. A process needs to be established to handle communications.</p>

REASONABLE NOTICE IS DETERMINED BY A NUMBER OF FACTORS – CATCH 22

12. One of the biggest unresolved issues is the length of the notice period, however as Vocus submitted (Vocus CWC submission para 10-21) this is something of a catch-22.
13. Chorus suggests that a reasonable notice period (the time between an SFA being declared and the physical withdrawal of copper) is left to the industry as part of the CWC development process.
14. Vocus is not averse to this approach but this again highlights the linkage between the SFA approach and the CWC development. Many of the points made in the table above have a

direct bearing on the length of the notice period, e.g. Chorus are suggesting 75% of New Zealand becomes an SFA on 1 January 2020. Vocus is concerned that:

- (i) There is an asymmetry of information between Chorus and RSPs in the absence of an agreed SFA timetable & scope.
- (ii) Chorus will look to limit the scope of a CWC. Chorus submit (*para 12 Chorus CWC submission*) that the CWC should be limited to the statutory requirements outlined in Schedule 2A of the Act. Vocus is of the view that the scope of the CWC should be determined as the issues above become clearer during industry discussions and not limited at this stage.