

Tristan Gilbertson
Telecommunications Commissioner
Commerce Commission
Level 6, 44 The Terrace
WELLINGTON 6011

27 November 2020

Dear Mr Gilbertson

Specified Fibre Areas – continued application of Standard Term Determinations and treatment of copper services under the Copper Withdrawal Code

Last year, we wrote to the Commerce Commission (**Commission**) outlining Chorus' commitment with respect to end-users that were being provided with a UBA or UCLF service on Standard Terms Determinations (**STDs**) terms when an area was declared a Specified Fibre Area (**SFA**) until the earlier of 30 June 2020, or the finalisation of the Copper Withdrawal Code (**CWC**).¹ This commitment expired on 30 June 2020.

The Commission has recently asked Chorus to extend this commitment and commit to applying identical processes to commercial copper services for the purposes of copper withdrawal. We respond to these requests below.

The Commission's request comes against the backdrop of a policy intent for the regulation of copper services to be eased in SFAs² and where our retail service provider (**RSP**) customers are removing the availability of copper services and migrating their customers at short notice to alternative technologies. While we welcome the opportunity to support the Commission and ensure a smooth transition during copper withdrawal, these circumstances raise a question of whether there is an appropriate balance of responsibilities between RSPs and Chorus, and whether we should be doing more to give effect to Parliament's intent to remove regulatory burdens on copper rather than add to them.

Notwithstanding our concerns above, we will commit to supply UBA or UCLF service in SFAs on STD terms for existing users from the date the CWC comes into force until 31 December 2021.

Regarding the second request, we reiterate our position that commercial variants of regulated copper services clearly do not fall within the scope of regulation, the

¹ See Chorus letter from Kate McKenzie to Stephen Gale at the Commission, dated 13 June 2019.

² See Chorus submission on Commerce Commission's Determining Specified Fibre Areas: Process and Issues Paper, dated 15 February 2019, where we outline Parliament's intent and policy rationale.

copper withdrawal regime, or the effect of an SFA declaration under the Telecommunications Act.³ We note that RSPs, who also have no regulatory obligations to continue to supply copper-based telecommunications services, are removing the availability of those services at very short notice and migrating their customers away from those services. It is not clear why Chorus should not be afforded the same flexibility for our own unregulated services.

Notwithstanding the above, we are prepared to adopt a process that is substantively similar for copper withdrawal for end-users on commercial variants of copper services in SFAs as applicable under the CWC for the relevant regulated or deregulated services (**Equivalent Process**) before withdrawal of those services. We note that we cannot control the actions of retail providers (for example in providing us information as required by the draft CWC), and this commitment cannot bind retail providers or other third parties on whom we are reliant to carry out withdrawal.

We are prepared to apply this Equivalent Process from the date the CWC comes into force until 31 December 2021. We understand that the Commission intends to commence a review of the CWC within 12 months of publication of the CWC, with a focus on whether the CWC adequately facilitates Chorus to withdraw copper services. Once that review is complete, and if it either concludes that the CWC is effectively facilitating copper withdrawal or results in changes to the CWC that resolve issues that are preventing the effective withdrawal of copper services, we will re-apply the Equivalent Process and further align the CWC and Equivalent Processes to the extent possible.

To support our ability to align the CWC and Equivalent Processes we reiterate our request that the CWC allow us to notify end-users by way of a generic (non-personalised) mail drop. This would avoid the requirement for Chorus to obtain retailers' customer information.

Please let me know if you have any questions or would like to discuss any of the above matters further.

Yours sincerely,



JB Rousselot
CEO
Chorus

³ Chorus Submission on Commerce Commission's Draft Copper Withdrawal Code and Reasons Paper, dated 17 July 2020.