

Via email: market.regulation@comcom.govt.nz

4 May 2023

Copper Withdrawal Code Review

Mercury welcomes the opportunity to provide feedback to the Commerce Commission (Commission) on its consultation paper *Copper Withdrawal Code Review*, 23 March 2023, (Consultation Paper). No part of this submission is confidential.

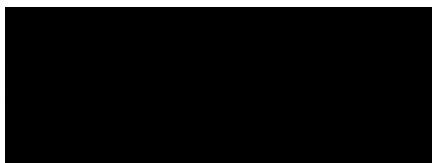
The Commission seeks views on the effectiveness of the Copper Withdrawal Code (the Code) in meeting the requirements in of the Telecommunications Act 2001.

Mercury's experience is that in general the Code is functioning reasonably well. However, Mercury considers that there is value in a small number of amendments to the Code to better accommodate situations that have arisen and that may arise again, which are presently not addressed, to provide greater certainty and further enhance the experience of end-users impacted by copper withdrawal.

Mercury provides feedback on the Code here in response to the Commission's questions, which is set out in the attached annex. Mercury has also provided the TCF with feedback for its submission on the Code. Mercury considers that both submissions are complementary.

Mercury looks forward to engaging with Commission and industry on progressing the review of the Code.

Yours sincerely,



Antony Srzich
Principle Advisor Regulatory Economics

Annex: Commission’s Consultation Paper questions with Mercury’s responses

Consultation Paper question	Mercury response
<p><i>Requirement 1: End-users understand Chorus’ process for withdrawal of the copper service, and how this will affect them</i></p>	
<p>1. In your experience do end-users understand Chorus’ process for withdrawal of copper services and how it will affect them? Please provide any evidence you have which supports your views.</p>	<p>Following communications from Mercury and Chorus, the majority of end users have sufficient understanding of the copper withdrawal process and how it affects them.</p> <p>Contact details are required to establish suitable communications channels and engage in an appropriate conversation with an end user. Unfortunately for a small minority of end users appropriate contact details are not readily available. This represents a substantial barrier achieving a successful migration.</p> <p>Mercury proposes that the Code enables Chorus to work with RSPs to confirm customers’ contact details and their preferred mode of communication (e.g., post, email, text messages, etc).</p> <p>Another situation that may become more challenging for end-users to understand and how it affects them is where Spark PSTN withdrawal and Chorus Copper withdrawal overlap. The overlap and its implications can be challenging to explain.</p> <p>Even though this currently impacts a small number of end users, Mercury proposes that the Code address this scenario to ensure communications remain co-ordinated and streamlined, particularly if the number of customers impacted by both Spark PSTN withdrawal and Chorus Copper withdrawal increases.</p>
<p><i>Requirement 2: End-users have access to information about fibre services available</i></p>	
<p>2. In your experience are end-users receiving information from Chorus that enables them to understand the fibre service options available to them? What are the reasons for your view?</p>	<p>Yes, by the time we engage with end-users, in general, they are aware of the fibre service options that are available to them.</p>
<p><i>Requirement 3: End-users have reasonable time to prepare for a proposed withdrawal of their copper service.</i></p>	
<p>3. Do you believe end-users are being given a reasonable amount of time to prepare for a proposed withdrawal of their copper service by Chorus? Why do you hold this view?</p>	<p>Under normal conditions, the standard process gives customers reasonable time to prepare for a proposed withdrawal of their copper service by Chorus. However, exceptional events such as Cyclone Gabrielle and the COVID lockdowns may mean that these timeframes are no longer adequate and require amendment to be reasonable. The Code should clarify how events such as these should be addressed going forward.</p>



<p><i>Requirement 4: End-users have a connection to a fibre service installed (if they wish to move to a fibre service), and the fibre service provides similar functionality to the copper service</i></p>	
<p>4. In your experience, are end-users able to have a fibre service (providing similar functionality) installed by Chorus within a reasonable timeframe?</p>	<p>Whether the timeframes are reasonable or not is difficult to determine given the current shortage of technicians who install fibre services. That is, this shortage which is impacting the install timeframes for Copper Withdrawal customers and other end users more generally is outside the control of the copper withdrawal process.</p>
<p><i>General Questions</i></p>	
<p>5. Do you have any changes you would suggest making to the Code to improve its effectiveness and outcomes for end-users?</p>	<p>An issue has been raised by the industry that relates to the ability of third parties to block copper withdrawal. The Code does not permit copper withdrawal where third-party consent/permission is not given despite fibre being available. Mercury has not experienced any issue to date related to this requirement of the Code.</p> <p>Mercury, however, supports the intent to address third parties' ability to block copper withdrawal, but we do not support Chorus determining unilaterally to withdraw copper where fibre cannot be installed due to an issue with a third party. Chorus should support the customer to get the necessary permissions, and legislative change should be considered that enables the installation of fibre in these cases.</p> <p>Mercury, therefore, supports the industry developing a process that Chorus would work through with a third party, the RSP, and the customer that would set out the reasonable options, for addressing the issues, available to the third party, and when Chorus could withdraw copper lines.</p>
<p>6. To what extent are the roles of Chorus and RSPs not sufficiently clear to end-users and how can this be improved?</p>	<p>See response to questions 1 and 2.</p>

