



Spark^{nz}

Copper Withdrawal Code Review
– Request for Views

Public Version

Commerce Commission

4 May 2023

Introduction

1. The existing Copper Withdrawal process effectively has a safety-net in that the customer's copper RSP will also be contacting the customer explaining what is happening to their copper service, and their options going forwards. We contact customers using their communications preferences and the contact information they have provided to us.
2. RSP communications are governed by the TCF Copper and PSTN Withdrawal Code, which works in parallel to complement the Chorus notices under the Copper Withdrawal Code (CWC).

CHORUS PROPOSALS

We Support Chorus Proposal 1

3. It makes sense to clean up the communications to customers and make the 'date of withdrawal' a more meaningful milestone.
4. It's important RSPs and Chorus use the same dates when talking with customers, so having a focus from the first notice on the 'date of withdrawal' will benefit all parties.
5. We support Chorus' proposal 1.

We Support Chorus Proposal 2

6. Chorus has a process today whereby RSPs can help them provide alternative postal addresses where one is needed.
7. When Spark provides Chorus with postal information we do not provide other information about the customer. We will however provide an alternative address where we have one.
8. It should be recognised that any information provided by the RSP to Chorus would be on a best effort basis and Chorus would still have the obligation to reach out to the customer at their correct address. RSPs cannot guarantee the address they provide to Chorus is still accurate – a customer may have given us an alternative address which was only valid for a period of time for example.
9. We support Chorus Proposal 2 subject to an acknowledgement that any address information provided by the RSP is provided on a best effort basis.

We Support Chorus Proposal 3 If It Is A Chorus Self Service Model

10. We support Chorus having flexibility on the delivery of its notices, but Chorus will need to source alternative contact details for customers itself – Spark does not

support a requirement for RSPs to share customers' personal contact information with Chorus.

11. Options are a 'self-service' model where end users can register with Chorus or opt-in to receive notices in a different format and/or by a different delivery method to posted mail.
12. End Users' contact information should only be used by Chorus for the purposes of the copper withdrawal and should be deleted after the withdrawal is completed so that Chorus does not retain end user information. The information should not be used for other purposes such as general marketing.
13. As RSPs will also be communicating with affected customers on the same topic at the same time as Chorus, we request that Chorus be required to relay a customers' election to receive communications by a means other than postal delivery to that customer's RSP.

We Support Chorus Proposal 4

14. We agree there should be a formal mechanism for Chorus to pause the copper withdrawal process due to unexpected events.
15. Often the duration of the pause will be unknown so the pause process should include an initial notice telling the customer the pause has started. Once a new withdrawal date is known this must be communicated to the customer with a recommencement notice.
16. Industry can work together to design the pause process to ensure customers are still given enough time after the pause to make alternative arrangements for their service. Suitable timeframes will likely depend on what point in the process the pause occurred and the duration of the pause.

We Do Not Support Chorus Proposal 5

17. We do not support Chorus being permitted to withdraw copper services from customers who cannot connect to fibre.
18. While it is frustrating for Chorus that a third party is preventing the fibre installation the proposal risks leaving customers without a viable service.
19. There can be a number of reasons why consent is not provided. For example, renters often feel an imbalance of power with their landlord and even with legislative rights to fibre, many are still uncomfortable approaching their landlord. Chorus should play a more active role in supporting these customers to get the necessary consents.
20. Chorus proposed being able to withdraw copper in scenarios where a third party is blocking the fibre installation and other technologies are available. This would be a fundamental change in approach whereby customers face losing their copper cable connection without the option of a UFB fibre alternative.

21. It's unclear whether Chorus's proposed approach is consistent with the scheme of the Act which provides that:
- a. The CWC must ensure that Chorus can only withdraw copper services where the end-user is able to access a fibre service within a reasonable time frame¹, and
 - b. Affords Chorus specific access rights, recognising that more than one person's consent might be required for an install and there may be difficulties in obtaining those consents².
22. On the face of it, Chorus' proposal potentially leaves customers without a key CWC protection of being able to access a replacement UFB fibre service, and without the same statutory rights of access as Chorus to address consent issues.
23. More broadly the proposed approach potentially leaves Chorus with little incentive to help customers resolve difficult consent issues. In practice, the framework should encourage Chorus to support migrating customers to resolve these issues, backed up by Chorus access rights under the Act.
24. Chorus notes that there are wireless alternatives for these customers. However, wireless technologies' service footprints can and do change over time. Mobile cell towers can be relocated to other locations, or new buildings can be erected next to existing cell infrastructure changing the propagation characteristics of service. If all available capacity from a site is exhausted in that site coverage area, or parts of it, the area can be placed into "stop sell" removing service availability for any customers not already connected to the site. Any of these factors could leave the customer without a service through no fault of the customer, or the wireless network operator.
25. Accordingly, while we support Chorus' contention that third parties should not be able to block installation of fibre lead-ins to facilitate copper withdrawal, we expect the correct mechanism for affecting this change is legislative, rather than through the CWC.
26. The Commission could take this opportunity to clarify the approach to copper served customers in SFA areas where the building did not exist at the time the SFA was determined, i.e., a premises was built and connected to copper after the SFA was determined. On the face of it, the CWC framework does not apply to this group of customers, and it is unclear whether these are STD services that cannot be withdrawn and what the migration arrangements should be. We are starting to see these forced migration customers receiving proposals for non-standard connection charges. The Commission clarifying this would provide certainty for Chorus, RSPs and migrating consumers.

¹ Schedule 2A

² Part 4, Subpart 3

OTHER MATTERS

Chorus proposed Notice Process

27. The proposed notice process should include the continuation notice for when the withdrawal needs to be deferred after the final notice. While this is a rare occurrence, it does happen so needs to have a process to cover the eventuality. This could be considered as a pause scenario under Chorus proposal 4.

Fibre Connection At No-Cost To The End-User

28. Paragraph 38.2 makes it clear that a fibre order placed after the First Notice should be installed at no cost to the end user. The definition states that 'No cost' means no cost to the end-user for the installation of the connection to the fibre service, whether the connection is a standard connection or non-standard connection.
29. We have examples of where Chorus have indicated charges may be applied to customers going through the copper withdrawal process. To date, alternative install methods or adjusted install plans have mitigated the requirement to charge. There have however been signals from Chorus regarding their ability to charge if they believe the circumstances warrant it.
30. An example we have seen is for a subdivided property where the person at the front of the property is on fibre, but a tenant in a second dwelling elsewhere in the property is still on copper. Ordinarily if the tenant wants to install a fibre connection that would be a non-standard installation requiring a second ONT at the property. But our view is that the tenant at the back should be able to move to fibre at no cost if Chorus is withdrawing the copper network serving their dwelling. The Act does not distinguish between standard and non-standard installs, they must both be at no cost to the end-user.
31. We sought clarity from Chorus on this point and they noted that they will still charge customers for non-standard installations where the property is classed as 'infill'. The most common scenario for 'infill' is where the property was built after fibre was initially rolled out down the street so the property isn't provisioned for fibre. In these cases a technician will be required to do additional outside boundary work, chargeable to the customer, in order to get them connected.
32. The concept of 'infill' is new to us. It should not be the case that a property in a Specified Fibre Area – and where Chorus proposes to withdraw the copper service - does not have reasonable access to a fibre service. This could be resolved in two ways:
 - a. The Code can clarify the scenarios under which a fibre connection is to be provided at no cost to the end-user to ensure this includes the concept of 'infill' properties; or

- b. The notified Specified Fibre Areas should be amended to exclude 'infill' areas so the Copper Withdrawal process will not apply to these properties.
33. The Code is not clear on who pays for non-standard connection costs where they apply. It only states that the end-user does not have to pay. This creates a theoretical loophole that, where Chorus is extending the copper withdrawal program to cover other LFC fibre areas and the LFC may have a non-standard installation fee, it is unclear who would pay this – the LFC or Chorus.
 34. The CWC is designed to give Chorus a process so it can, if it wishes, remove its copper network. The benefit of copper withdrawal falls primarily on Chorus who can reduce its network costs. It follows therefore that Chorus should cover the cost of installation of the fibre, whether that be defined as standard or non-standard.
 35. It should not fall on the RSP or other LFCs to cover the cost of non-standard installations. This would create perverse incentives. For example, if Chorus chose to charge RSPs for non-standard installations or leave the costs sitting with other LFC, then RSPs and LFCs would likely choose to not sell fibre to these customers to avoid the financial loss. This could potentially leave the customer without a fibre service.
 36. We suggest the definition of 'no cost' is amended so that it is clear that the cost of a non-standard installation is funded by Chorus.
 37. The only time it would be appropriate for the end user to pay the cost of a non-standard installation would be where the customer elects not to accept a 'no cost' installation option but instead request an alternative installation method or routing of their fibre service which carries additional costs.
 38. This is also common with business or corporate premises, where there may be an existing fibre connection on a different part of the site. The line under copper withdrawal may require a new fibre set up which is often chargeable.

Consultation Questions

Question 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.

39. While Chorus' communication is important to explain the context of the copper withdrawal, customers must engage with their RSP to agree the migration plan for their specific services.
40. The key information they need to know from Chorus is that they need to move their services off the copper network because it's being withdrawn, the date on which the withdrawal will occur, and that the customer needs to talk to their RSP to understand their options for moving their services to a more appropriate technology.

41. Chorus' Proposal 1 provides this additional clarity to customers around the date of withdrawal.

Question 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?

42. We believe customers understand what options are available to them. Around []SPKCI of our copper withdrawal customers have taken a fibre service which suggests customers understand that a fibre option is available to them.

Question 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?

43. There is a balance to be struck between giving customers enough notice and giving a withdrawal date which is so far in the future that customers take no notice.
44. We think the current timeframe provides the right balance.

Question 4: In your experience, are end-users able to have a fibre service (providing similar functionality) installed by Chorus within a reasonable timeframe?

45. Chorus is required under 38.1 to make fibre available within a reasonable timeframe. The current well publicised issues with Chorus installation delays suggest this is not being achieved in some cases. This is a wider issue than the copper withdrawal code.
46. We see huge frustrations for customers through these delays, particularly where there are multiple reschedules. However, we note that customers are able to retain their copper service until the new fibre service is in place.

Question 5: Do you have any changes you would suggest making to the Code to improve its effectiveness and outcomes for end-users?

47. As described in our main submission, we believe the Code needs to be amended to clarify when a fibre installation that is required to enable Chorus to withdraw copper will be 'no cost', what 'no cost' means, and to clarify that Chorus must meet the costs associated with 'no cost' installations, not the RSP.
48. Chorus should be required under the Code to have a map where customers can input their address and see their official 'withdrawal date'. This should be updated to include information on whether the withdrawal has been paused.

49. The requirement on Chorus to not stop supplying a copper service before the fibre installed should apply for orders placed anytime between the First Notice and the final disconnection day. It is Chorus' current policy to accept fibre orders up to the end of the 10 day RSP disconnection window and maintain the copper service for these orders until the fibre service is connected. This should be formalised in the Code by clarifying in paragraph 38 that section G1 applies to orders placed anytime between the First Notice and when the copper is finally disconnected.
50. Chorus should be more involved in the copper withdrawal process with customers. For example, they should be doing more to work with landlords and third parties to resolve issues during the copper withdrawal process. This expectation should be formalised in the Code.

Other Issues Which Are Not Strictly Code Issues:

51. We have observed data consistency issues. For example extra lines which appear in the fortnightly updates we receive from Chorus which weren't in earlier batches.
52. Managing multiple batches running in parallel with different disconnection dates is a challenge for RSPs. We recognise this is not a Code issue but we would prefer Chorus had fewer batches of withdrawal, even if this means more customers in each batch.

Question 6: To what extent are the roles of Chorus and RSPs not sufficiently clear to end-users and how can this be improved?

53. The objective of the Copper Withdrawal Code is to ensure customers are able to make the transition from a copper service to another technology in a timely manner while being clear of the process and the options available to them. In this respect it does not really matter if customers don't fully understand the difference between Chorus and their RSP.