

Copper Withdrawal Amended Code 2023

Draft Decisions and Reasons

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Associated documents

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Glossary

Table of terms and abbreviations	
CFLAS	Copper fixed line access services
copper service	CFLAS and UCLL/UCLL Backhaul
ESRI	The Environmental Systems Research Institute
FFLAS	Fibre fixed line access services
GIS	Geographic Information System
LFC	Local fibre companies
PSTN	Public switched telephone network
RFSP	Relevant fibre service provider
RSP	Retail service provider
SFA	Specified Fibre Area
STD	Standard terms determination
TCF	Telecommunications Forum
UCLL	Unbundled copper local loop
UFB	Ultra-Fast Broadband
TDR	Telecommunications Dispute Resolution

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Executive Summary

- X1 The Commerce Commission (**the Commission**) has reviewed the Copper Withdrawal Code (**the Code**) to assess the operation of the Code and identify any improvements to better meet the minimum requirements in the Telecommunications Act 2001 (**the Act**).
- X2 The Code is a set of minimum requirements that must be met before Chorus is permitted to withdraw copper services in areas where specified fibre services are available to end-users. The principal purpose of the Code is to protect the end-users of copper-based services.¹
- X3 In March 2023, we published a Request for Views paper² seeking stakeholder views on the operation of the Code to date, and any improvements to better meet the minimum requirements set out in the Act. Our paper also sought views on specific proposals Chorus had made for improving the Code.
- X4 Consultation confirmed that, while the Code continues to deliver against the minimum requirements in the Act, there is scope for improvement in some areas.
- X5 Accordingly, our draft decisions to amend the Code are intended to:
- X5.1 Simplify and improve the notice process;
 - X5.2 Allow flexibility in end-user communication channels; and
 - X5.3 Provide additional pause mechanisms to help resolve process issues.
- X6 We have prepared a draft amended Code for consultation with interested parties alongside this Draft Decisions and Reasons paper. This paper provides our draft decisions and reasons for the Code amendments we propose.

¹ The copper services covered by the Code are specified in Schedule 2A (1) of the Act.

² https://comcom.govt.nz/_data/assets/pdf_file/0017/310904/Copper-Withdrawal-Code-Review-Request-for-Views-23-March-2023.pdf

Chapter 1 Introduction

Purpose of this document

1. The Act allows the Commission to amend the Code if we consider that the amended Code will better meet all the requirements set out in the Act.³
2. We have reviewed the Code and sought views from stakeholders and interested parties. Our draft decision is that changes are required to the Code to enable it to better meet its purpose under the Act.
3. A draft amended Code has been prepared to give effect to these changes and is published alongside this Draft Decisions and Reasons paper. The purpose of this paper is to give our draft decisions and reasons for the draft amended Code, and to invite submissions.

Structure of this document

4. This Draft Decisions and Reasons paper has the following sections:
 - 4.1 **Chapter 2 – Context for the Code review** explains the context for this review, including the experience of stakeholders under the Code to date;
 - 4.2 **Chapter 3 – Process and test for amending Code** discusses the legal process and test for making amendments to the Code; and
 - 4.3 **Chapter 4 – Draft Decisions and Reasons** provides our reasoning for the content of the draft amended Code, including minimum requirements.

Process for our review

5. On 23 March 2023, the Commission published a Request for Views paper setting out the Code review process and seeking stakeholder views on:
 - 5.1 the operation of the Code to date, and any improvements to better meet the minimum requirements; and
 - 5.2 Chorus' proposed amendments to the Code.
6. In May 2023, we received six submissions in response to our Request for Views paper. These were from One NZ, Chorus, Spark, Mercury, Consumer NZ, and NZ Telecommunications Forum (TCF).⁴

³ Schedule 2A, clauses 4(1) and 3 of the Act.

⁴ Copies of these submissions can be found here: <https://comcom.govt.nz/regulated-industries/telecommunications/projects/review-of-the-copper-withdrawal?target=documents&root=310903>

7. Following assessment of all views and evidence received through the consultation process, we have prepared a draft amended Code for consultation with interested parties.

Information for interested parties on making a submission

8. We invite submissions and feedback on the draft amended Code and Draft Decisions and Reasons paper. Submissions are due by 5pm on 09 November 2023.
9. Submissions should be provided as an electronic copy in an accessible form. Please email submissions to telecommunications@comcom.govt.nz with the subject line “Submission: Copper Withdrawal Code Review”.
10. We intend to publish all public versions of submissions received on our website. Please provide a clearly labelled public version of your submission.
11. If you wish to provide commercially sensitive information in your submission, we request that you provide, as necessary, confidential, and public versions of your submission.
12. When including commercially sensitive or confidential information in your submission, we offer the following guidance:
 - 12.1 please provide a clearly labelled confidential version and public version;
 - 12.2 please provide reasons alongside any information in the confidential version as to why it is commercially sensitive or confidential information; and
 - 12.3 the responsibility for ensuring confidential information is not included in a public version of a submission rests entirely with the party making the submission.
13. If we consider disclosure of information, for which confidentiality is claimed to be in the public interest, we will consult with the party that provided the information before any public disclosure of that information is made.
14. After considering the submissions received, we will publish the amended Code and final Decisions and Reasons paper.

Chapter 2 Context for the Code review

15. In November 2018, the Act was amended by the Telecommunications (New Regulatory Framework) Amendment Act 2018. The amendments to the Act required the Commission to publish a Code by 1 January 2022.
16. The Code was approved by the Commission under clause 3 of Schedule 2A of the Act on 10 December 2020 and came into force on 1 March 2021.⁵
17. The 2018 amendments to the Act also gave the Commission the responsibility to determine areas where fibre is available to end-users, known as specified fibre areas (SFAs). These areas are where certain copper services cease to be designated access services, and the assessment and notification of SFAs is an essential Code prerequisite.
18. SFAs cover approximately 1.8 million households and businesses mainly in major towns and cities across New Zealand. A map of the areas can be found on our website.⁶
19. In December 2022, the roll-out of the national fibre to the premises network under the ultra-fast broadband (UFB) initiative was completed. As a result of the UFB roll-out, formal copper withdrawal has commenced, meaning that copper availability in urban areas is decreasing.⁷
20. Figure 1 below shows the cumulative number of initial copper withdrawal notices issued by Chorus in the period to 31 December 2022.⁸ In its half year results, reporting up to 31 December 2022, Chorus reported that of the approximately 19,000 notices issued, approximately 10,000 copper services for notified connections had ceased.⁹ We considered that the volume of notices and withdrawal activity provided a sufficient foundation to commence our review of the Code, ahead of further copper withdrawal that Chorus plans to complete by 2026.

⁵ Refer to the commencement date set out in paragraph 1 [of the Code](#).

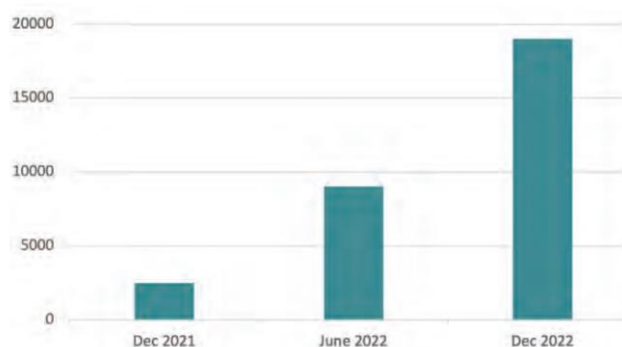
⁶ Commerce Commission “Map of specified fibre areas” see <https://comcom.govt.nz/regulated-industries/telecommunications/regulated-services/consumer-protections-for-copper-withdrawal/map-of-specified-fibre-areas>

⁷ Commerce Commission “2022 Telecommunications Monitoring Report” see https://comcom.govt.nz/_data/assets/pdf_file/0028/318907/2022-Annual-Telecommunications-Monitoring-Report-15-June-2023.pdf page 14.

⁸ Commerce Commission “2022 Telecommunications Monitoring Report” see https://comcom.govt.nz/_data/assets/pdf_file/0028/318907/2022-Annual-Telecommunications-Monitoring-Report-15-June-2023.pdf page 17.

⁹ Chorus “2023 half year results – investor presentation” (20 February 2023), slide 27 – see <https://company.chorus.co.nz/reports>

Figure 1: Initial notices issued under the Copper Withdrawal Code (cumulative); Source: Chorus¹⁰



21. In March 2023, we published a Request for Views paper.¹¹ This paper set out the process for our review and sought stakeholder views on the operation of the Code to date, and any improvements to better meet the minimum requirements. It also presented Chorus' initial feedback following its withdrawal of copper services, and Chorus' proposed Code amendments.
22. Our review has considered the current Code against the requirements set out in Part 2AA and in Schedule 2A of the Act, which relate to the deregulation of copper and the Code, respectively.
23. Our review also considered whether the Code can be improved to better deliver on the Act's minimum requirements, having regard to the operation of the Code to date.
24. Further, we have assessed the requirements in the Code (including any technical operational requirements), and whether these can be improved to better meet the Act's requirements.
25. This included considering whether the minimum requirements in clause 1(3) of Schedule 2A can be delivered more transparently, so information about the requirements is more accessible to end-users.
26. The Request for Views paper sought the views of industry and consumer stakeholders on how effectively the Code is meeting the minimum requirements set out in the Act.
27. As an input to that paper, Chorus provided a range of proposals for improvements to the Code, drawn from its experience of the withdrawal of copper services to date.

¹⁰ Chorus "2023 half year results – investor presentation" (20 February 2023), slide 27 – see <https://company.chorus.co.nz/reports>

¹¹ https://comcom.govt.nz/_data/assets/pdf_file/0017/310904/Copper-Withdrawal-Code-Review-Request-for-Views-23-March-2023.pdf

28. Stakeholder views were sought on the minimum requirements of the Code and the proposals put forward by Chorus. This information has helped us recognise where opportunities exist for the Code to better fulfil the requirements set out in the Act.

Responses to our Request for Views

29. We note that the majority of the responses we received chose to focus on Chorus' proposals, with only some responses addressing questions about the effectiveness of the Code meeting the requirements in the Act. We infer from this that the Code is meeting its purpose, but there is opportunity to improve some operational aspects of the Code to better meet the minimum requirements.
30. We also recognise the concerns we heard regarding the need for New Zealanders to have a greater awareness of what is involved as the country moves from the legacy copper network to fibre and other technologies. While the Code is not a complete solution to this wider challenge, our findings may be used to inform other consumer awareness activities.

Responses to our End-user survey

31. In addition to the submissions, we also conducted an end-user survey, targeted at end-users that had been involved in copper withdrawal under the Code. The responses we received did not raise concerns that the Code was not meeting its intended purpose but did highlight the need for better communications with more certainty on timing.

Chapter 3 Process and test for amending the Code

32. In this chapter we state the legal process and test for making amendments to the Code. The relevant legal framework from the Act is included as **Appendix A** and the provisions of the Act relating to the Code are included as **Appendix B** to this paper.

Process for amending an approved code

33. Clause 4(1) of Schedule 2A of the Act provides that the Commission may prepare an amendment to an approved Code if we consider that it no longer meets all the requirements set out in the Act, and prescribes that the Commission must follow the following process for amending an approved code:¹²

33.1 Notify the process that will be followed to amend the code;

33.2 Consult with interested persons;

33.3 Give public notice of a draft code;

33.4 Approve the draft amended code if the Commission is satisfied that it meets all the requirements in the Act.

34. Interested persons are entitled to make submissions to the Commission within 30 working days after the date on which public notice of the draft amended code is given, and the Commission must have regard to any submissions received by this due date.¹³

The test for making amendments to the Code

35. When considering whether the Code meets the requirements of the Act, we will consider the approved Code against the minimum requirements set out clause 1(3) of Schedule 2A, read in light of the purpose of the Code and the purpose in Part 2AA to provide protections for end-users of copper fixed line access services in deregulated areas.
36. We do not consider that we are constrained by clause 4(1) of Schedule 2A to only consider amendments where there is clear gap in the Code in meeting the minimum requirements in the sense that a requirement is not met at all.
37. We consider that we are permitted to make amendments to the Code where the amended Code would better meet the minimum requirements, including where a different way of doing something would better deliver on the requirements. We have therefore assessed whether the Code can be amended to better meet the minimum requirements, considering the purpose of the Code and the purpose of Part 2AA of the Act.

¹² Refer cl 2 and 3 of Schedule 2A, via cl 4(2) of Schedule 2A.

¹³ Refer cl 2(2) and 2(3) of Schedule 2A.

38. Our review includes an examination of evidence on the effectiveness and efficiency of the technical operational requirements in the Code, and whether these can be improved to better meet the minimum requirements to achieve better outcomes for end-users considering the Code’s purpose.
39. In assessing whether to amend the Code, we will consider the Code as a whole and whether the amendments in combination would result in material improvements, including by improving transparency or making information more accessible to end-users.
40. In addition, we consider that clause 1(4) permits us to add new clauses to the Code where we consider this would better meet the purpose of the Code.¹⁴

Purpose of the Code

41. The purpose of the Code is set out in Part B of the approved Code, and states:

The purpose of the Code is to protect end-users of certain copper services where Chorus seeks to withdraw those services. The Code ensures this by setting out minimum consumer protection requirements that Chorus must comply with before Chorus may withdraw the end-user’s copper service, such that the end-user –

2.1 understands Chorus’s process for withdrawal of the copper service, and how this will affect the end-user;

2.2 has access to information about fibre services available to the end-user;

2.3 has reasonable time to prepare for a proposed withdrawal of the copper service; and

2.4 is able to have a connection to a fibre service installed (if they wish to move to a fibre service), and that the fibre service provides similar functionality to the copper service.

42. As noted in our December 2020 Reasons paper, this purpose reflects our view that the Code’s main purpose is to establish consumer protection requirements. This is reflected in clause (1) of Schedule 2A, which provides that the Commission must make a Code “setting out minimum consumer protection requirements for end-users” of certain copper services. Part 2AA of the Act enables Chorus to withdraw copper services where these minimum consumer protection requirements are met.
43. We also acknowledge that Part 2AA envisages the withdrawal of certain copper services, and that this is reflected in one of the purposes of Part 2AA being to deregulate Copper fixed line access services (CFLAS) in areas where Fibre fixed line access services (FFLAS) are available.

¹⁴ Clause 1(4) provides that the code may contain any other provisions that the Commission or the Forum (as appropriate) considers are necessary or desirable.

Chapter 4 Draft Decisions and Reasons

44. In this chapter we set out our draft decisions and reasons for amendments to the Code.

Consultation supporting our draft decisions

45. Our Request for Views paper sought stakeholder views on whether the Code meets the minimum requirements set out in the Act. The paper set out questions against the minimum requirements that Chorus must meet before Chorus can withdraw the end-user's copper service.
46. The Request for Views paper also sought stakeholder views on Chorus' proposals for improving the Code, as well as any other suggested changes to the Code to improve its effectiveness and outcomes for end-users.
47. Below we outline:
- 47.1 the requirements set out in the Act and current Code in relation to the topics we received submissions on via our Request for Views paper; and
 - 47.2 our draft decisions and reasons in response to the submissions received in relation to these topics.
48. For ease of reference, we have aligned the submissions and Chorus' proposals to the requirements in the Act and the Code.
49. A summary of submissions is included as **Appendix C** and a summary of proposed changes to the Code is included as **Appendix D** to this paper.

Requirement to give notice of proposed withdrawal of copper service

What the Act and current Code require

50. Chorus must give reasonable notice of the proposed withdrawal of the copper service.¹⁵ Chorus is required to give reasonable notice to:
- 50.1 the end-user;
 - 50.2 the access seeker, who will be the end-user's retail service provider (RSP); and
 - 50.3 the relevant fibre service provider (RFSP) for the end-user's premises, which will be one of the other local fibre companies (LFCs) or any other fibre provider.

¹⁵ Clause 1(3)(b) of Schedule 2A the Act.

51. Further, Chorus must ensure that end-users understand Chorus' process for withdrawal of their copper service and how this will affect them before this service is withdrawn.¹⁶
52. The Code currently requires Chorus to provide several notices to the end-users, RSPs and RFSPs, regarding the proposed withdrawal of copper service. The notices that are currently required under the Code are outlined in Table 1 below.

Table 1 Notices to be provided by Chorus and their timeframes under the current Code

Timeframes	Notice	End-user	RSPs	RFSP
No later than seven months prior to proposed copper withdrawal date	RFSP Notice			✓
No later than six months prior to proposed copper withdrawal date	RSP Notice		✓	
No later than six months prior to proposed copper withdrawal date	First Notice	✓		
Three months prior to proposed copper withdrawal date (unless a Continuation Notice has been provided)	Further Notice	✓		
20 working days prior to proposed copper withdrawal date (unless a Continuation Notice has been provided)	Final Notice	✓		
As soon as reasonably practicable after Chorus decides to continue to supply the copper service (but no later than 20 working days before the expiry of the notice period)	Continuation Notice	✓	✓	✓
Where Chorus has failed to comply with the minimum requirements and will continue providing the copper service (no later than one month after the six-month notice period has ended)	Continuation Notice	✓	✓	✓
Where an end-user does not order a retail fibre service or choose to have their copper service disconnected	Confirmation Notices	✓	✓	✓

53. We propose the following Code amendments as a set of pragmatic improvements that will increase clarity, operational flexibility, and visibility for all parties.

Naming of notices

Draft Decision

54. Our draft decision is that the Code be amended to:
 - 54.1 refer to the First Notice as "Notice 1", the Further Notice as "Notice 2", and the Final Notice as "Notice 3". These changes aim to reflect the intended sequence of notices, and reduce the confusion caused under the current

¹⁶ Refer Part B, clause 2.1 of the Act.

process whereby the “Final Notice” is on occasion not actually the final notice an end-user receives; and

- 54.2 allow Chorus flexibility to change the names of these notices. This discretion in naming convention allows Chorus to manage end-user expectations and understanding.

Reasons

55. The current naming of the notices causes confusion. We agree with Chorus’ submission that, for example, under the current Code, the Final Notice is not actually the final notice, and the Final Notice (stating finality) comes after the end of the notice period.¹⁷
56. We note that while we are proposing that the amended Code requires Chorus to issue Notices 1, 2, and 3, Chorus has the discretion to issue any additional notices it deems necessary for engagement with an end-user.

Clarifying notice definitions

Draft Decision

57. Our draft decision is that the term ‘proposed date of withdrawal of copper service’ be changed to ‘withdrawal date’, which will be defined as follows:

“Withdrawal date” means the date (dd/mm/yyyy) Chorus intends to stop supplying the copper service to the end-user, ~~as specified in a First Notice;~~ and is a date that follows the date the notice period ends.

58. As a necessary follow-on, we have also amended the “notice period”, as follows:

“Notice period” means the period between the date Notice 1 is provided to an end-user ~~and the proposed date of withdrawal of the copper service delivered to an end-user,~~ and a date at least 6 months from the date of Notice 1.

59. Each notice will now include the date the “notice period ends” (being a date at least six months from the date of Notice 1), rather than the ‘proposed date of withdrawal’ as currently required. The withdrawal date will be included only in Notice 3 (we discuss this amendment in the next section). Accordingly, we are proposing:
- 59.1 amending the requirement so Notice 1, Notice 2 and Notice 3 include the date the notice period ends.
- 59.2 removing the requirement that Notice 1 and Notice 2 must include the ‘proposed date of withdrawal’; and require only Notice 3 to include the actual ‘withdrawal date’.

¹⁷ Chorus “Submission on Copper Withdrawal Code Review – Request for Views” (04 May 2023) para 11d, 21.

- 59.3 amending the requirement so Notice 1 is provided to the end-user at least six months before the notice period ends; the RSP notice is provided at the same time Chorus provides Notice 1 to the end-user; and the RFSP notice is provided no later than one month before Chorus provides Notice 1 to the end-user.
- 59.4 amending the requirement so notices to the RSP and RFSP include the ‘date the notice period ends’ for withdrawal of copper service, rather than the proposed date of withdrawal.

Reasons

60. Chorus’ submission noted that current definitions of “notice period” and “proposed date of withdrawal” appear to inadvertently conflate the “notice period” ending with the “proposed date of withdrawal”, because rather than the end of notice period being at least six months from the date of the First Notice, it is defined as the “proposed date of withdrawal of the copper service.” According to Chorus, this creates confusion, as in practice, Chorus cannot withdraw copper until the notice period has lapsed i.e., the withdrawal date must follow the end of the notice period.¹⁸
61. In accepting Chorus’ proposal that the “proposed date of withdrawal” definition should be amended, we also accept its proposal that the definition of “notice period” needs to be amended.
62. These amendments are aimed at avoiding the confusion concerns raised by Chorus and other respondents, as it will make it clear that the date the notice period ends, and the date that copper is removed, are not the same. The amendment to the “proposed date of withdrawal date” definition is aimed at clarifying this by providing a date that copper will be withdrawn that is separate from the date that marks the end of the notice period.
63. We note that some submissions provided feedback that the withdrawal date should be included in all communications to the end-user. However, as a practical matter, Chorus is generally not able to specify a date for withdrawal until later in the process. Specifying a withdrawal date in Notice 3 provides more certainty at a time when Chorus is reasonably able to provide one.
64. Moreover, providing a consistent ‘date the notice period ends’ in all prior notices keeps the end-user informed of the notice period in which they can still engage with the copper withdrawal process to transition away from copper services.

Final notice and withdrawal date

Draft Decision

65. Our draft decision is that unless Chorus provides, or is required to provide a Continuation Notice to an end-user, Notice 3 should be the last required notice and

¹⁸ Chorus “Submission on Copper Withdrawal Code Review – Request for Views” (04 May 2023) para 18-19.

should confirm the actual date of copper withdrawal (along with the date the notice period ends). Chorus will be required to inform the end-user's RSP and the RFSP at the same time it provides Notice 3 to the end-user.

66. Accordingly, we are proposing to remove the general requirement of providing a 'Confirmation Notice' to mark completion of the copper withdrawal process.
67. For end-users who do not order a retail fibre service or do not choose to have their copper service disconnected during the notice period, Notice 3 informs the end-user, the end-user's RSP and the RFSP about the outcome – that Chorus will be no longer required to supply the copper service after the notice period ends.
68. For end-users who order a retail fibre service after receipt of Notice 3, but during the notice period, the 'withdrawal date' is subject to change and Chorus should follow the 'minimum requirements in relation to end-users who order a retail fibre service' set out in Part G of the Code.
69. We have decided to keep the requirement to provide a 'Continuation Notice' in these circumstances.

Reasons

70. Chorus proposed that the overall notice process could be improved if the Final Notice was the last notice an end-user receives (outlining the potential outcome) – rather than the third of four notices, where a Confirmation or a Continuation Notice is actually the final notice, and could change the overall message given to the end-user.¹⁹ Chorus recommended amending the Final Notice to communicate the outcome at that point in time, rather than after the notice period ends.
71. This proposal was supported by most respondents. The majority view is that sending a separate notice within a month after the notice period ends can cause confusion, and that this requirement should be removed.²⁰ To resolve this, it was proposed that the final notice (Notice 3) includes the actual withdrawal date.
72. We agree that the provision of Confirmation Notices could cause confusion to end-users about the status of their copper services.
73. We note that the purpose of the notice period is that end-users receive fair warning of Chorus' proposal to withdraw copper services and have sufficient time to understand the options available to them. Our view is that the end-user will still have the benefit of the six-month notice period, even if Notice 3 (being the last notice specifying the withdrawal date) is received before the notice period ends – provided the withdrawal date falls after the end of the six-month notice period.

¹⁹ Chorus "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) para 21.

²⁰ TCF "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) para 6i; Consumer NZ "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) page 4; One NZ "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) para 2-3.

74. We agree with Spark’s submission that notice process should retain the Continuation Notice for situations when the withdrawal needs to be deferred after the final notice.²¹

Duration between notices

Draft Decision

75. Our draft decision is to amend the duration between each notice as follows:
- 75.1 Notice 2 must be issued no earlier than two months after the date of Notice 1 and no later than three months after the date of Notice 1.
 - 75.2 Notice 3 must be issued no later than 30 working days before the end of the notice period and no earlier than 40 working days before the end of the notice period.
 - 75.3 The time between Notice 3 and the end of the notice period will be extended to provide extra time for the end-user to change service, and allow for better co-ordination between RFSPs, RSPs and the end-user. We are proposing to increase the time between Notice 3 and the end of the notice period from the current 20 working days to 30 working days.

Reasons

76. Chorus submitted that, while it supports the requirement to provide three notices, it found that end-users often forget and/or do not understand the urgency of an impending change to their copper service. The current Code’s fixed date and timeframe between each notice may cause end-users to lose track of where they are in the process.²² Chorus recommended shortening the duration between each notice to allow a degree of flexibility in the process.
77. Chorus proposed that:²³
- 77.1 The Further Notice must be provided no earlier than one month after the date of the First Notice and no later than two months after the date of the First Notice; and
 - 77.2 The Final Notice must be provided no earlier than two months before the end of notice period and no later than one month before the end of notice period.
78. While we agree that allowing a degree of flexibility would be useful in many cases, we are concerned that Chorus’ proposal could lead to scenarios where either Notice 2 is delivered too soon, and/or there is an insufficient delay between Notice 2 and Notice 3. Our draft decision mitigates this risk while also allowing some flexibility in the process.

²¹ Spark “Submission on Copper Withdrawal Code Review – Request for Views” (04 May 2023) para 27.

²² Chorus “Submission on Copper Withdrawal Code Review – Request for Views” (04 May 2023) para 13.

²³ Chorus “Submission on Copper Withdrawal Code Review – Request for Views” (04 May 2023) para 15.

79. We consider that these draft decisions help to improve the timing of the notification process and will allow Chorus to better meet the requirement in clause 1(3)(b) of Schedule 2A (that it must give the end-user reasonable notice of the proposed withdrawal of the copper services, whilst continuing to meet the purpose of the Code, as they will make the notification process easier for end-users to understand).

Requirement regarding how Chorus must provide notice

What the Act and current Code require

80. Chorus must give the end-user reasonable notice of the proposed withdrawal.²⁴
81. As part of the reasonable notice requirement, the Code currently provides that the notice to the end-user must be addressed to the premises where the end-user resides²⁵ and that Chorus must, in the first instance, deliver the notices by posted mail.²⁶ However, where Chorus has been unable to deliver a notice by postal operator, it must deliver the notice by a physical letter-drop to the premises.²⁷

Notices delivered to an alternative address

Draft Decision

82. Our draft decision is to allow for notices to be delivered to an alternative address, subject to the following conditions:
- 82.1 the first notice to an end-user (Notice 1) must always go to the copper network-connected premise address; and
- 82.2 RSPs will not be obligated to share alternative address information under the Code.

Reasons

83. Chorus proposed that the Code should be amended to allow for flexibility in the delivery and accessibility of notices.
84. Chorus would like to be able to send notices to alternative addresses (such as a PO Box or alternative residential address for the homeowner) where it knows that this would be preferred.²⁸ Submissions were supportive of this proposal, recognising it would provide for a better outcome and engagement with affected end-users.
85. We agree that the Code should be amended to allow for notices to be delivered to an alternative address. We also agree with the TCF's submission that this change will also help address scenarios where an end-user does not reside at the premises.²⁹

²⁴ Clause 1(3)(b) of Schedule 2A of the Act.

²⁵ Clause 27.1 of the Code.

²⁶ Clause 27.2.1 of the Code.

²⁷ Clause 27.2.2 of the Code.

²⁸ Chorus "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) para 27.

²⁹ TCF "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) para 6ii.

86. We note that the current Code provides that notices should be addressed to the premise to which the copper service is supplied. That is, the notices do not need to be addressed to the name of the end-user of the service. This rule has the benefit of simplicity, as Chorus does not require any additional information in order to address its notices.
87. However, we are of the view that generic addressing of the notices, as prescribed by the current Code, can reduce the chances that an end-user reads the notices, and that alternative communication channels may be more effective in meeting notice requirements.
88. Our view is that including the option of delivering to an alternative address increases the likelihood that notices will be received and actioned by end-users. We recognise that providing notice by post to the premises where the end-user resides may not always be sufficient, and that being able to deliver notices to an alternative address will be necessary in some instances.

Flexibility with communication channels

Draft Decision

89. Our draft decision is to allow Chorus to use alternative methods of communication, such that:
 - 89.1 Chorus can ask end-users for their preferred communication method (i.e., post or email) and associated contact details (i.e., address of premises where end-users reside, an alternative postal address, or an email address); and
 - 89.2 The end-user contact information collected by Chorus is only used by Chorus for the purposes of delivering notices related to copper withdrawal.

Reasons

90. Chorus submitted that it should be able to use alternative communication channels, such as email, when issuing notices. The feedback received was generally supportive of this proposal, with some caveats. Respondents recognised that more flexibility in how notices are delivered could increase the likelihood that end-users receive and understand them.
91. Further, digitally received communications are seen as particularly helpful for those end-users who may need additional support – such as seniors, vision-impaired, and those who do not speak English as their first language.
92. Respondents were unanimous in their view that Chorus must source these alternative contact details for customers independently, without RSP assistance. Additionally, end-users' contact information should only be used by Chorus for the purposes of the copper withdrawal programme, and not be used for any other purpose.
93. We are of the view that the method of delivery of notices, as prescribed by the current Code, is not always practicable or the preferred method, by which an end-

user receives communications. We agree that allowing the use of alternative communication channels to meet end-users' preferences will improve the effectiveness of the process.

94. In reaching this view, we have been mindful of RSPs concerns³⁰ about allowing Chorus to communicate directly with end-users. We consider that Chorus should be able to communicate via different channels when an end-user opts-in to attempts to gather information directly, or when information is shared by an RSP, and only after confirming its data retention policy. Chorus communications should be strictly limited to the purpose of the Code.
95. We consider these proposed changes will allow Chorus to better meet the requirement in clause 1(3)(b) of Schedule 2A that it must give the end-users reasonable notice of the proposed withdrawal of the copper services by giving them more flexibility in how they communicate with end-users. In our current view, these proposed changes would also be consistent with the consumer protection focus of the Code as they will increase the reliability of end-users receiving information about proposed withdrawals.

Requirement for a pause to copper withdrawal notice period

What the Act and current Code require

96. Chorus must give the end-user reasonable notice of the proposed withdrawal of the copper services.³¹ The requirement to provide reasonable notice includes provision for Chorus to pause a notified withdrawal in certain circumstances.³²
97. Under Part I of the Code, a pause can currently be triggered during an end-user's notice period if:
- 97.1 a dispute is referred to an industry dispute resolution scheme (or Utilities Disputes in connection with the installation of a connection to a fibre service under the Code);
 - 97.2 the end-user takes an enforcement action under section 156BA of the Act; or
 - 97.3 the Commission takes an enforcement action under section 156B of the Act for a breach that is related to the withdrawal of the end-user's copper service.

³⁰ One NZ "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) para 5-8; Spark "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) para 10-13.

³¹ Clause 1(3)(b) of Schedule 2A of the Act.

³² The Act does not explicitly allow Chorus to pause a proposed withdrawal due to unforeseen events as part of this requirement. However, clause 1(4) of Schedule 2A of the Act provides that the Code may contain any other provisions that the Commission considers necessary or desirable. Under clause 1(3)(h) of Schedule 2A of the Act, the minimum requirements that the Code must include before Chorus is permitted to stop supplying a copper service under section 69AC or 69AD also includes "any other prescribed matters must be complied with."

98. The notice period is paused until the dispute or enforcement action is resolved (e.g., a determination by an industry dispute resolution scheme is made or an order is made by the High Court).

Notice period pause due to an extreme or unforeseen event

Draft Decision

99. Our draft decision is to include a pause mechanism for defined extreme or unforeseen events.
100. The pause mechanism will operate such that:
- 100.1 A pause can only be applied during extreme or unforeseen events.
 - 100.2 Chorus will notify end-users, RSPs, RFSPs and the Commission when a pause is applied and lifted.
 - 100.3 The duration of the pause will be added to the notice period length (i.e., the end of the notice period will be extended by the length of the pause triggered by extreme or unforeseen events).

Reasons

101. Chorus submitted that a pause mechanism should be included in the Code to accommodate extreme events, such as those experienced during Cyclone Gabrielle. Chorus argued that such pause mechanism would provide an opportunity for the impact of any unforeseen delays or events to be resolved before the process recommences. In effect, this means that Chorus would be better able to meet its obligations under the Code within the defined notice period.
102. Mercury agreed that exceptional events such as Cyclone Gabrielle may mean longer timeframes are required, and that the Code should clarify how this scenario should be addressed.³³
103. Other submissions were supportive of Chorus' proposal.³⁴
104. We agree that allowing for a pause to the process during extreme or unforeseen events will improve the clarity and reliability of the process for industry participants and end-users by allowing the industry to respond and adapt to unforeseen events.

Notice period pause due to third-party delays

Draft Decision

105. Our draft decision is to add a new pause mechanism for delays in the installation of the fibre service due to acts or omissions of a third party under the following conditions:

³³ Mercury "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) annex para 3.

³⁴ TCF "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) para 6 iv.

- 105.1 This pause only applies in situations where an end-user has ordered a retail fibre service (i.e., in situations where section G of the Code - “Minimum requirements in relation to end-users who order a retail fibre service” applies).
- 105.2 Chorus will notify end-users, RSPs and RFSPs when a pause is applied and lifted.
- 105.3 The duration of the pause will be added to the notice period length.
- 105.4 The notification will include detailed reasons for the pause, and an end of pause date that is no later than 45 working days from the date that the pause is applied. We consider 45 working days is sufficient to explore a workable solution.
- 105.5 If no outcome is achieved after 45 working days, Chorus must follow the process set out in section G4 of the Code and provide a Continuation Notice to the end-user, the end-user’s RSP and RFSP.
- 105.6 Chorus to provide pause information as part of its annual information disclosure to the Commission.

Reasons

106. We consider that these proposed amendments balance the requirements for reasonable notice to end-users, with the need for Chorus to deal with unexpected third-party delay events. Including a 45 working-day time limit on pauses related to these premise-level delays ensures that the consumer protection purpose of the Code is upheld as it avoids a pause being put in place for an indefinite period and causing uncertainty for end-users.
107. Our current view is that operational delays within Chorus’ control, such as technician shortages and difficult installs, do not warrant a pause mechanism.
108. This is the first time in this Code review process that a pause mechanism for premise-level delays has been proposed. We are proposing this change, as a practical step, which we consider to be operationally helpful, and complementary to the other pause mechanisms.

Requirement for a fibre connection installation

What the Act and current Code require

109. As a precursor to withdrawal of copper, Chorus is required to ensure that an end-user:³⁵
 - 109.1 has access to a fibre service; and

³⁵ Clause (1)(3)(a) of Schedule 2A of the Act.

- 109.2 a connection to the fibre service is installed:
 - 109.2.1 within a reasonable timeframe; and
 - 109.2.2 at no cost to the end-user, whether the connection is standard or non-standard.
- 110. Clause 38 of the current Code provides for an end-user to have a fibre service connection installed (when an end-user places an order with a RSP for a connection to a fibre service) within a reasonable timeframe, and at no cost to the end-user.
- 111. However, an exemption to this requirement exists in certain circumstances under clause 41 of the current Code. The Code currently sets out that this requirement does not need to be satisfied if:
 - 111.1 the end-user fails to cooperate with the process to have a connection to a fibre service installed; and
 - 111.2 all reasonable efforts have been made by the relevant fibre service provider to install a connection to a fibre service for the end-user.
- 112. As set out in clause 42 of the current Code, for these purposes, ‘all reasonable efforts’ means that the relevant fibre service provider must:
 - 112.1 have made at least three attempts to confirm an appointment with the end-user to fulfil that end-user’s request to have a fibre connection installed; and
 - 112.2 after having made these three attempts, have informed the end-user’s retail service provider of the lack of response from the end-user and that the order for a connection to a fibre service has therefore been cancelled.
- 113. Under clause 43 of the current Code, the requirement for ‘connection to a fibre service installed within reasonable timeframe’ does not need to be satisfied if, at a point in time after an end-user has ordered a retail fibre service:
 - 113.1 the relevant fibre service provider becomes aware that the installation of a connection to a fibre service will potentially be impeded by the acts or omissions of a third party (including a third-party dispute regarding access to a premises or obtaining landlord permission);
 - 113.2 as soon as reasonably practicable after the relevant fibre service provider becomes aware of the third-party issue, the relevant fibre service provider informs the end-user:
 - 113.2.1 of the third-party issue; and
 - 113.2.2 that the end-user must take reasonable steps available to them to resolve the third party issue (e.g., by seeking their landlord’s permission to have a fibre connection installed, under section 45B of the Residential Tenancies Act 1986), otherwise the end-user’s order

for a retail fibre service may be cancelled and Chorus will be permitted to stop supplying the end-user's copper service (provided it has complied with the rest of the Code); and

- 113.3 within a reasonable timeframe after the relevant fibre service provider informs the end-user of the third-party issue, the end-user does not take reasonable steps available to them to resolve the third-party issue.
114. For the purposes of 'reasonable efforts', where the relevant fibre service provider is not Chorus, the relevant fibre service provider must inform Chorus that they have made all reasonable efforts to install a connection to a fibre service for the end-user (if the relevant fibre service provider considers that it has made all reasonable efforts) and Chorus is permitted to rely on this information.

Fibre installation delays due to acts or omissions of third parties

Draft Decision

115. Our draft decision is not to amend the Code to allow copper withdrawal where third-party disputes cannot be resolved within a 3-month period. However, we have provided for a 'Pause' mechanism (for premise-level delays) to provide a further 45 working days for Chorus to resolve delays caused by acts or omissions of a third party.

Reasons

116. Submissions highlighted the extended installation timeframes currently being experienced by some end-users.³⁶ Submissions also recognised that this is largely due to a shortage of technicians and is an industry-wide issue, beyond the scope of the Copper Withdrawal Code.³⁷
117. Currently, installation of a fibre service can be impeded by the acts or omissions of a third party. Chorus submitted that approximately one third of cabinets are impacted by third party issues.³⁸
118. In situations where a third party is delaying installation of a fibre connection, Chorus is not permitted to withdraw the end-user's copper service, except in limited circumstances (e.g., where the end-user fails to take reasonable steps available to them to resolve the issue).
119. Chorus has submitted that the impact of this delay scenario is significant and that even one service remaining on a cabinet or exchange prevents that cabinet or exchange from being decommissioned.³⁹

³⁶ Consumer NZ "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) page 3.

³⁷ Spark "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) para 45, 46; Mercury "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) Annex para 4.

³⁸ Chorus "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) para 41.

³⁹ Chorus "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) para 37.

120. Chorus proposed managing these third party delay issues by:⁴⁰
- 120.1 amending the Code to enable copper to be withdrawn where an end-user is informed there is a third-party constraint on their fibre installation and informed of what steps are available to them, but the dispute remains unresolved after a reasonable period (e.g., where a third party does not respond or continues to impede the installation);
 - 120.2 Chorus considers three months is sufficient time to identify and resolve such a dispute, and that it should be able to withdraw copper after this time period has lapsed.
121. One NZ acknowledged Chorus' difficulties and supported the idea of removing the ability for third parties to delay copper withdrawal.⁴¹ Consumer NZ submitted that where third-party issues extend beyond a reasonable time, Chorus should not be required to keep the copper service running.⁴² Spark noted the risk to loss of service the Chorus proposal presents and that the framework should encourage Chorus to support end-users to resolve these issues, backed up by Chorus access rights under the Act.⁴³ Both Spark and Mercury shared the view that the correct mechanism for enabling fibre installation in such cases is a legislative change.⁴⁴
122. While we recognise the difficulty Chorus faces in the event of third-party delays, our current view is that the Act does not permit the amendment sought by Chorus. In our view, a legislative bar is created by the minimum requirement in clause 1(3)(a) of Schedule 2A "*that end-users subject to copper withdrawal must be able to access a fibre service... and be able to have a connection to the fibre service installed... within a reasonable time frame... and at no cost*". Chorus' proposal is inconsistent with the meaning of the words "*have a connection to the fibre service installed...within a reasonable time frame*" as set out in clause 1(3)(a)(ii)(A), read in light of their purpose and context.
123. For these reasons, we remain of the view set out in our December 2020 Reasons paper,⁴⁵ that if an end-user orders a retail fibre service, it is a minimum requirement that a connection to a fibre service is installed before Chorus can stop supplying the copper service. This means that, where a connection has been unable to be installed

⁴⁰ Chorus "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) para 45.

⁴¹ One NZ "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) para 10.

⁴² Consumer NZ "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) page 4.

⁴³ Spark "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) para 18, 20, 22-23.

⁴⁴ Spark "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) para 25; Mercury "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) Annex para 5.

⁴⁵ "Copper Withdrawal Code – Decisions and reasons paper – 10 December 2020" - https://comcom.govt.nz/data/assets/pdf_file/0031/229882/Copper-Withdrawal-Code-Decisions-and-reasons-paper-10-December-2020.pdf

because of an impediment such as a third-party property access dispute, Chorus will not be permitted to withdraw the copper service.

124. We note that although section 69AA of the Act sets out the dual purposes of consumer protection and copper deregulation where FFLAS is available, the Act is clear that the main purpose of the Code is to establish consumer protection requirements. This is reflected by clause 1 of Schedule 2A emphasising the importance of consumer protection when it states that the Commission must “prepare a code...setting out minimum consumer protection requirements for end-users” of certain copper services. It was on this basis that we also included a consumer protection focused purpose statement in the Code.
125. Finally, as noted in our December 2020 Reasons paper, there are also two legislative regimes in place to reduce the number of instances of a fibre connection being delayed due to third-party issues, which we would encourage Chorus to explore further as an alternative to its proposed amendments to the Code:⁴⁶
- 125.1 There is a statutory right of property access for the purpose installing fibre connections under the Act. The right of access is limited to shared property and lower impact installations; and
- 125.2 The Residential Tenancies Act 1986 was amended in August 2020 to improve the process for the installation of fibre in rental properties by requiring landlords to permit and facilitate the installation of UFB, in certain circumstances. This amendment came into force in February 2021.

Other recommendations to improve the Code’s effectiveness

126. In submissions on the Request for Views paper, respondents put forward a number of suggestions that they considered would improve the effectiveness of the Code. This section addresses those proposals and submissions not already addressed above.

Withdrawal date map

Draft Decision

127. Our draft decision is that the current Code is sufficient, and no change is required.

Reasons

128. Spark suggested a Code change that would require Chorus to produce a map where customers can input their address and see their official “withdrawal date” and the map be updated to include information on whether the withdrawal has been paused.⁴⁷

⁴⁶ “Copper Withdrawal Code - Decisions and reasons paper - 10 Dec 2020” para 263.

⁴⁷ Spark “Submission on Copper Withdrawal Code Review – Request for Views” (04 May 2023) para 48.

129. We note that under the current Code Chorus must provide a map and downloadable ESRI GIS shapefile⁴⁸ that identifies any local geographical area (e.g., a street or copper cabinet area) that is an area within which Chorus has provided a first notice (Notice 1) to an end-user under the Code. We currently consider this to be sufficient.

Forecasts to RSPs

Draft Decision

130. Our draft decision is that the current Code is sufficient, and no change is required.

Reasons

131. One NZ suggested a requirement that Chorus provides RSPs in advance with the forecasts of the size and location of planned copper withdrawal. One NZ noted that supporting customers through the transition to alternative telecommunications services is a resource intensive process, particularly for unengaged or reluctant customers. Visibility of Chorus' longer-term plans would help it "forecast and plan for the right level of resources and budget this project will require over the coming years".⁴⁹
132. As noted in our December 2020 Reasons paper, RSPs would have at least six months' notice of each instance of copper withdrawal, which should give them sufficient time to manage migrations to new telecommunications technologies.⁵⁰ We consider this is to be sufficient.

Standard and non-standard connections

Draft Decision

133. Our draft decision is that the current Code is sufficient, and no change is required.

Reasons

134. Spark submitted that the Code should 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.⁵¹ Spark considers that the Act does not distinguish between standard and non-standard installs.
135. Spark also sought clarity on the 'no cost' definition, so that the cost of a non-standard installation is funded by Chorus in circumstances such as in-fills, in cases

⁴⁸ The Environmental Systems Research Institute's (ESRI) data storage file format for Geographic Information System (GIS) software, which stores the location, shape, and attributes of geographic features.

⁴⁹ One NZ "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) para 12-13.

⁵⁰ "[Copper Withdrawal Code - Decisions and Reasons Paper - 10 Dec 2020](#)" Para 190.

⁵¹ Spark "Submission on Copper Withdrawal Code Review – Request for Views" (04 May 2023) para 34-36.

where LFCs may have a non-standard installation fee or where a premises was built and connected to copper after the SFA was determined.⁵²

136. To date, we have not seen evidence suggesting that this is a material issue. Schedule 2A makes it clear that both “standard” and “non-standard” connections to a fibre service must be installed at no cost to the end-user.⁵³
137. In our view, this wording makes it sufficiently clear that Chorus must provide standard and non-standard connections at no cost, and to do otherwise would likely breach the Code.

Obligation to supply a copper service before fibre is installed

Draft Decision

138. Our draft decision is that the current Code is sufficient, and no change is required.

Reasons

139. Spark submitted that the requirement on Chorus to not stop supplying a copper service before fibre is installed should apply to orders placed anytime between the First Notice and the final disconnection day. Spark submitted that this should be formalised in the Code by clarifying that section G1 applies to orders placed anytime between the First Notice and when the copper is finally disconnected.⁵⁴

140. We note that clause 38 of the current Code states:

38. If, at any time after an end-user is provided a First Notice, the end-user places an order with a retail service provider for a connection to a fibre service to be installed, the end-user must have a connection to a fibre service installed:

38.1 subject to clause 39, within a reasonable timeframe but, in any event, before Chorus stops supplying the copper service (even if later than the expiry of the notice period); and

38.2 at no cost to the end-user.

141. In our view, clause 38 of the current Code is already sufficiently clear on this issue as it confirms that fibre must be installed before Chorus stops supplying the copper service in situations where an end-user has placed an order with a retail service provider for fibre to be installed, at any time during the notice period after they have been provided a First Notice.

⁵² Spark “Submission on Copper Withdrawal Code Review – Request for Views” (04 May 2023) para 26, 29-36.

⁵³ Section 155ZU of the Act defines “standard” and “non-standard” connections.

⁵⁴ Spark “Submission on Copper Withdrawal Code Review – Request for Views” (04 May 2023) para 49.

Exceptions where a non-fibre alternative is available

Draft Decision

142. Our draft decision is that the current Code is sufficient, and no change is required.

Reasons

143. Chorus submitted that the current Code requirements go too far in requiring Chorus to retain copper in situations there is a third-party delay issue, but non-fibre technologies are available (e.g., fixed wireless or satellite).⁵⁵ Chorus considered these technologies provide acceptable alternatives to fibre, and that it should be able to proceed with copper withdrawal when these are available.⁵⁶

144. Submissions from other stakeholders were mixed, with Consumer NZ supporting an alternative service where third-party delay of fibre occurs⁵⁷, but One NZ opposing the proposal.⁵⁸

145. Spark cautioned against reliance on the availability of fixed wireless access as a means of unlocking a third-party dependency, noting that the ability to order fixed wireless access is subject to availability, and that there are well acknowledged capacity constraints.⁵⁹

146. As with other aspects of delays caused by third-parties, we note the need for the minimum requirement set out in clause 1(3)(a) of Schedule 2A to be satisfied and remain of the view that if an end-user orders a retail fibre service, it is a minimum requirement that a connection to a fibre service is installed before Chorus can stop supplying the copper service. This means that, where a connection has been unable to be installed because of an impediment such as a third-party property access dispute, Chorus will not be permitted to withdraw the copper service.

147. Accordingly, we are not proposing to amend the Code to allow for copper withdrawal where alternative technologies are available. However, we note that end-users impacted by third-party delays can voluntarily shift to an alternative service. If this occurs, then the Code no longer applies.

Clarity on the roles of Chorus and RSPs to the end-user

Draft Decision

148. Our draft decision is that the current Code is sufficient, and no change is required.

⁵⁵ Chorus “Copper Withdrawal Code Review – Request for Views – Appendix 1 – Proposal 5” (23 March 2023) page 13.

⁵⁶ Chorus “Submission on Copper Withdrawal Code Review – Request for Views” (04 May 2023) para 47-49.

⁵⁷ Consumer NZ “Submission on Copper Withdrawal Code Review – Request for Views” (04 May 2023) page 4.

⁵⁸ One NZ “Submission on Copper Withdrawal Code Review – Request for Views” (04 May 2023) para 11.

⁵⁹ Spark “Submission on Copper Withdrawal Code Review – Request for Views” (04 May 2023) para 24.

Reasons

149. Consumer NZ submitted that more could be done to assist end-users to understand the distinction between the roles of Chorus and RSPs. This could be improved by the Commission creating clearer, consumer-centric, guidance.⁶⁰
150. Consumer NZ also considered that it would also be useful if end-users only had to deal with their RSPs, rather than both their RSPs and Chorus (or other local fibre company).
151. Spark submitted that the “objective of the 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”.⁶¹
152. Mercury noted the confusion that can arise where Spark’s public switched telephone network (PSTN) withdrawal and Chorus’ copper withdrawal messaging overlaps. It proposed that the Code addresses this scenario to ensure communications remain co-ordinated and streamlined.⁶²
153. We recognise the concerns regarding the need for New Zealanders to have a greater awareness of all the transitional arrangements currently in progress as the country moves from the legacy copper network to fibre and other technologies. We will use the experience gained during this review to inform further collaboration with industry in this regard. We will continue to work with industry and other stakeholders to produce further consumer-centric guidance, such as the factsheets created in collaboration with the TCF and Telecommunications Dispute Resolution (TDR).⁶³

Consequential changes to the Code

154. The draft decisions set out above require consequential changes to the Code. These changes relate to provisions that are not minimum requirements that must be satisfied before Chorus can stop supplying a copper service. This section sets out these changes.

⁶⁰ Consumer NZ “Submission on Copper Withdrawal Code Review – Request for Views” (04 May 2023) page 4.

⁶¹ Spark “Submission on Copper Withdrawal Code Review – Request for Views” (04 May 2023) para 53.

⁶² Mercury “Submission on Copper Withdrawal Code Review – Request for Views” (04 May 2023) Annex para 1.

⁶³ Changes to Copper Landline and Broadband Services in New Zealand Factsheet, see https://comcom.govt.nz/_data/assets/pdf_file/0018/293121/Copper-transition-Factsheet.pdf; Home phone technology and calling 111 Factsheet, see <https://www.tdr.org.nz/sites/default/files/2022-03/Homephone%20and%20111%20-%20Factsheet.pdf>.

Requirement to disclose information and keep records

155. Under clause 1(4) of the Schedule 2A of the Act, the Code may contain any other provisions that the Commission considers are necessary or desirable.
156. In addition to existing record keeping and information disclosure requirements under clause 30 of the current Code, our draft decision is to include the requirement on Chorus to disclose and keep a record of the following information:
- 156.1 in relation to pauses deemed necessary for premise-level delays and used in context of third-party delays:
- a. the number of pauses it has applied;
 - b. the date each of these pauses was applied and lifted;
 - c. for the pauses that did resolve within 45 working days, the number that resolved and the reasons why; and
 - d. for the pauses that did not resolve within 45 working days, the number that did not resolve and the reasons why.
- 156.2 number of copper services withdrawn; and
- 156.3 number of copper services withdrawn where fibre service has not been installed.
157. In accordance with clause 1(4) of Schedule 2A, we consider it necessary to include these information disclosure and record keeping requirements because they will allow us to monitor compliance with the Code. We consider these additional information disclosure requirements to be proportionate as they help us meet the purpose of the Code without imposing unnecessary costs on Chorus.

Appendix A: Legal framework

1. In this appendix, we set out the relevant legal framework from the Act by providing an overview of:
 - 1.1 **Part 2AA of the Act:** which concerns the deregulation of copper fixed line access services (CFLAS) in areas where fibre fixed line access services (FFLAS) are available;
 - 1.2 **Schedule 2A of the Act:** which contains the key provisions relating to the Code; and
 - 1.3 **Purpose of Code:** The minimum consumer protection requirements set out in the Purpose of the Code.

Part 2AA – deregulating CFLAS

2. Part 2AA of the Act concerns the deregulation of CFLAS in areas where FFLAS is available.
3. Section 69AA provides that the purpose of Part 2AA is to:
 - 3.1 deregulate CFLAS in areas where FFLAS are available;
 - 3.2 provide protections for end-users of CFLAS and certain other designated services in deregulated areas; and
 - 3.3 provide for the Commission to investigate whether the regulation of CFLAS and certain other designated services should be altered.
4. The first two purpose statements above are relevant to the copper withdrawal process. The third relates to the requirement in section 69AH of the Act for the Commission to carry out a review of the regulation of copper services. This copper regulation review is outside of the scope of this Draft Decisions and Reasons paper but will be carried out by the Commission no later than 31 December 2025, as required by the Act.
5. Section 69AC provides for withdrawal of CFLAS, while section 69AD relates to the withdrawal of certain other designated access services. Section 69AC states:

69AC Withdrawal of copper fixed line access services

 - (1) This section applies if—
 - (a) Chorus is required by a standard terms determination made under section 30M to supply a copper fixed line access service to an access seeker; and
 - (b) Chorus started supplying the service at a time when the end-user’s building (or, where relevant, the building’s distribution frame) was not located in a specified fibre area; and
 - (c) as a result of a notice under section 69AB—

- (i) the end-user's building (or, where relevant, the building's distribution frame) becomes located in a specified fibre area; and
 - (ii) the service ceases to be a designated access service in the specified fibre area on and after the date specified in the notice.
- (2) Chorus may stop supplying the service referred to in subsection (1) only if—
 - (a) a copper withdrawal code has been approved and Chorus complies with the requirements of the code in relation to stopping the supply of the service; or
 - (b) the end-user chooses to have the service disconnected (other than a temporary disconnection).
- (3) To avoid doubt, Chorus is not required to—
 - (a) supply a service that ceases to be a designated access service in relation to a new end-user; or
 - (b) resupply a service that Chorus has stopped supplying in accordance with subsection (2).

6. Section 69AD states:

69AD Withdrawal of certain designated access services

- (1) This section applies if—
 - (a) Chorus is required by a standard terms determination made under section 30M to supply a relevant service to an access seeker; and
 - (b) Chorus started supplying the service at a time when the service was a designated access service; and
 - (c) as a result of section 13 of the Telecommunications (New Regulatory Framework) Amendment Act 2018, the service ceases to be a designated access service on and after 1 January 2020.
- (2) Chorus may stop supplying the service only if—
 - (a) a copper withdrawal code has been approved and Chorus complies with the requirements of the code in relation to stopping the supply of the service; or
 - (b) the end-user chooses to have the service disconnected (other than a temporary disconnection).
- (3) To avoid doubt, Chorus is not required to—
 - (a) supply a service that ceases to be a designated access service in relation to a new end-user; or
 - (b) resupply a service that Chorus has stopped supplying in accordance with subsection (2).
- (4) In this section, relevant service means either of the following:
 - (a) Chorus's unbundled copper local loop network:
 - (b) Chorus's unbundled copper local loop network backhaul (distribution cabinet to telephone exchange).

7. The designated access services to which Part 2AA apply are set out in section 69AD. This section applies if:
 - 7.1 Chorus is required by a standard terms determination (STD) made under section 30M to supply a relevant service to an access seeker;
 - 7.2 Chorus started supplying the service at a time when the service was a designated access service; and
 - 7.3 as a result of section 13 of the Telecommunications (New Regulatory Framework) Amendment Act 2018, the service ceases to be a designated access service on and after 1 January 2020.
8. In other words, the CFLAS and designated access services to which Part 2AA applies, are wholesale copper services which:
 - 8.1 Chorus is required to supply under the relevant STDs;
 - 8.2 Chorus started supplying when the service was regulated; and
 - 8.3 are now considered “deregulated services” as they are no longer designated access services.
9. Sections 69AC and 69AD of the Act give effect to the end-user protection purpose statement in section 69AA(b). They do this by permitting Chorus to stop supplying CFLAS, and certain former designated access services, only if:
 - 9.1 The Code is complied with; or
 - 9.2 The end-user chooses to have the service disconnected e.g., voluntarily moving to satellite.⁶⁴
10. Otherwise, Chorus must continue to supply the copper service on the terms in the relevant STD.

Schedule 2A

11. Section 69AF of the Act provides that the Copper Withdrawal Code is the Code approved under Schedule 2A.
12. Clause 1(1) of Schedule 2A states that:

The Commission, or the Forum if requested to do so by the Commission, must prepare a code to be known as the copper withdrawal code, setting out minimum consumer protection requirements for end-users of the following:

- (a) copper fixed line access services in areas that are, or will become, specified fibre areas:

⁶⁴ This does not include temporary disconnections.

- (b) Chorus’s unbundled copper local loop network:
- (c) Chorus’s unbundled copper local loop network backhaul (distribution cabinet to telephone exchange).

13. The services described in subparagraphs (a)-(c) above are the services with which sections 69AC and 69AD are concerned.

Minimum requirements the Code must contain

14. Clause 1(3) of Schedule 2A sets out the minimum requirements that the Code must include. These minimum requirements must be satisfied before Chorus is permitted to stop supplying a CFLAS or UCLL/UCLL Backhaul service under sections 69AC or 69AD. These minimum requirements are:

- (a) the end-user in relation to the service must be able to—
 - (i) access a fibre service; and
 - (ii) have a connection to the fibre service installed—
 - (A) within a reasonable time frame; and
 - (B) whether the connection is standard or non-standard, at no cost to the end-user; and
- (b) Chorus must give the end-user, the access seeker, and the relevant fibre service provider reasonable notice of the proposed withdrawal of the copper service; and
- (c) the functionality provided by the services that are to be withdrawn must, apart from legacy services, be available to the end-user over a fibre service; and
- (d) Chorus must provide the end-user with information about—
 - (i) the withdrawal of the copper services; and
 - (ii) the need to make alternative arrangements, such as battery backup, to maintain the fibre service in the event of a power failure; and
- (e) Chorus must, if it is reasonably practicable to do so, provide the end-user with information about the fibre services available to the end-user; and
- (f) if an anchor service is declared under section 227, the anchor service (or a commercial equivalent) must be available at the end-user’s premises; and
- (g) a Commission 111 contact code must be in force; and
- (h) any other prescribed matters must be complied with.

15. In relation to the last requirement – “any other prescribed matters must be complied with” – the Act gives no explicit direction in relation to “prescribed matters”. However, clause 1(4) provides that the Code “may contain any other provisions that the Commission... considers are necessary or desirable.”

16. As established in our December 2020 Reasons paper, it is our view is that this clause gives us the power to prescribe additional matters – or minimum requirements –

that we consider to be reasonably required to ensure the effective operation of the Code.⁶⁵

Purpose of the Code

17. The purpose of the Code is set out in Part B of the approved Code⁶⁶, and states:

The purpose of the Code is to protect end-users of certain copper services where Chorus seeks to withdraw those services. The Code ensures this by setting out minimum consumer protection requirements that Chorus must comply with before Chorus may withdraw the end-user's copper service, such that the end-user –

- 2.1 understands Chorus's process for withdrawal of the copper service, and how this will affect the end-user;
- 2.2 has access to information about fibre services available to the end-user;
- 2.3 has reasonable time to prepare for a proposed withdrawal of the copper service; and
- 2.4 is able to have a connection to a fibre service installed (if they wish to move to a fibre service), and that the fibre service provides similar functionality to the copper service.

18. As noted in our December 2020 Reasons paper, this purpose reflects our view that the Code's main purpose is to establish consumer protection requirements.⁶⁷ This is reflected in clause (1) of Schedule 2A, which provides that the Commission must make a Code "setting out minimum consumer protection requirements for end-users" of certain copper services. Part 2AA of the Act enables Chorus to withdraw copper services where these minimum consumer protection requirements are met.

19. We also acknowledge that Part 2AA envisages the withdrawal of certain copper services, and that this is reflected in one of the purposes of Part 2AA being to deregulate CFLAS in areas where FFLAS are available.

⁶⁵ ["Copper Withdrawal Code - Decisions and Reasons Paper - 10 Dec 2020" Para 87.](#)

⁶⁶ ["Copper Withdrawal Code - 10 Dec 2020" Part B.](#)

⁶⁷ ["Copper Withdrawal Code - Decisions and Reasons Paper - 10 Dec 2020" Para 154.](#)

Appendix B: Relevant statutory sections for the Code

69AA Purpose

The purpose of this Part is to—

- (a) deregulate copper fixed line access services in areas where fibre fixed line access services are available; and
- (b) provide protections for end-users of copper fixed line access services and certain other designated services in deregulated areas; and
- (c) provide for the Commission to investigate whether the regulation of copper fixed line access services and certain other designated services should be altered.

69AB Specified Fibre Areas

- (1) The Commission must, before 1 January 2020 and at least annually thereafter, carry out an assessment to determine the geographic areas in which a specified fibre service is available to end-users.
- (2) The Commission must, by public notice, declare an area to be a specified fibre area if the Commission determines in an assessment under subsection (1) that a specified fibre service is available to end-users in the area.
- (3) A notice under this section must specify the date on and after which the area is to be a specified fibre area, and that date must not be before 1 January 2020.
- (4) A notice under this section may describe an area by any means, including (without limitation)—
 - (a) by use of a map; and
 - (b) by a narrative description of the area.
- (5) The Commission must maintain a record of all specified fibre areas that is available, at all reasonable times, for inspection on the Commission's Internet site in an electronic form that is publicly accessible.
- (6) In this section, **specified fibre service** means either of the following:
 - (a) a fibre fixed line access service; or
 - (b) a telecommunications service provided by a regulated fibre service provider (F) over fibre media where the ultimate recipient of the service is F or a related party of F (as if the test for related parties were the same as the test in section 69U, applied with any necessary modifications).

69AC Withdrawal of copper fixed line access services

- (1) This section applies if—
- (a) Chorus is required by a standard terms determination made under section 30M to supply a copper fixed line access service to an access seeker; and
 - (b) Chorus started supplying the service at a time when the end-user's building (or, where relevant, the building's distribution frame) was not located in a specified fibre area; and
 - (c) as a result of a notice under section 69AB,—
 - (i) the end-user's building (or, where relevant, the building's distribution frame) becomes located in a specified fibre area; and
 - (ii) the service ceases to be a designated access service in the specified fibre area on and after the date specified in the notice.
- (2) Chorus may stop supplying the service referred to in subsection (1) only if—
- (a) a copper withdrawal code has been approved and Chorus complies with the requirements of the code in relation to stopping the supply of the service; or
 - (b) the end-user chooses to have the service disconnected (other than a temporary disconnection).
- (3) To avoid doubt, Chorus is not required to—
- (a) supply a service that ceases to be a designated access service in relation to a new end-user; or
 - (b) resupply a service that Chorus has stopped supplying in accordance with subsection (2).

69AD Withdrawal of certain designated access services

- (1) This section applies if—
 - (a) Chorus is required by a standard terms determination made under section 30M to supply a relevant service to an access seeker; and
 - (b) Chorus started supplying the service at a time when the service was a designated access service; and
 - (c) as a result of section 13 of the Telecommunications (New Regulatory Framework) Amendment Act 2018, the service ceases to be a designated access service on and after 1 January 2020.
- (2) Chorus may stop supplying the service only if—
 - (a) a copper withdrawal code has been approved and Chorus complies with the requirements of the code in relation to stopping the supply of the service; or
 - (b) the end-user chooses to have the service disconnected (other than a temporary disconnection).
- (3) To avoid doubt, Chorus is not required to—
 - (a) supply a service that ceases to be a designated access service in relation to a new end-user; or
 - (b) resupply a service that Chorus has stopped supplying in accordance with subsection (2).
- (4) In this section, relevant service means either of the following:
 - (a) Chorus’s unbundled copper local loop network:
 - (b) Chorus’s unbundled copper local loop network backhaul (distribution cabinet to telephone exchange).

69AF Copper withdrawal code

- (1) In this Part, copper withdrawal code means the code approved under Schedule 2A.
- (2) Schedule 2A sets out the provisions that apply to the copper withdrawal code.

Schedule 2A Copper withdrawal code

- 1 Copper withdrawal code**
 - (1) The Commission, or the Forum if requested to do so by the Commission, must prepare a code to be known as the copper withdrawal code, setting out minimum consumer protection requirements for end-users of the following:
 - (a) copper fixed line access services in areas that are, or will become, specified fibre areas:
 - (b) Chorus’s unbundled copper local loop network:
 - (c) Chorus’s unbundled copper local loop network backhaul (distribution cabinet to telephone exchange).
 - (2) The code must be prepared before the implementation date.

- (3) The minimum requirements that the code must include are that, before Chorus is permitted to stop supplying a copper service under section 69AC or 69AD, —
- (a) the end-user in relation to the service must be able to—
 - (i) access a fibre service; and
 - (ii) have a connection to the fibre service installed—
 - (A) within a reasonable time frame; and
 - (B) whether the connection is standard or non-standard, at no cost to the end-user; and
 - (b) Chorus must give the end-user, the access seeker, and the relevant fibre service provider reasonable notice of the proposed withdrawal of the copper service; and
 - (c) the functionality provided by the services that are to be withdrawn must, apart from legacy services, be available to the end-user over a fibre service; and
 - (d) Chorus must provide the end-user with information about—
 - (i) the withdrawal of the copper services; and
 - (ii) the need to make alternative arrangements, such as battery backup, to maintain the fibre service in the event of a power failure; and
 - (e) Chorus must, if it is reasonably practicable to do so, provide the end-user with information about the fibre services available to the end-user; and
 - (f) if an anchor service is declared under section 227, the anchor service (or a commercial equivalent) must be available at the end-user’s premises; and
 - (g) a Commission 111 contact code must be in force; and
 - (h) any other prescribed matters must be complied with.

(4) The code may contain any other provisions that the Commission or the Forum (as appropriate) considers are necessary or desirable.

(5) In this clause, —

anchor service has the meaning set out in section 164(1)

fibre service means —

- (a) a fibre fixed line access service; or
- (b) a telecommunications service provided over a fibre-to-the-premises access network

legacy service means the services (if any) specified in the copper withdrawal code as legacy services

standard connection and **non-standard connection** have the meanings set out in section 155ZU.

2 Consultation process on code

(1) The Commission or the Forum (as appropriate) must —

- (a) notify the process that will be followed to make the code; and
- (b) consult with interested persons; and
- (c) give public notice of a draft code.

(2) A person is entitled to make submissions to the Commission or the Forum (as appropriate) before the date that is 30 working days after the date on which public notice of the draft code is given (the due date).

- (3) The Commission or the Forum (as appropriate) must have regard to any submissions received before the due date.
- 3 Commission’s discretion to approve draft code**
- The Commission may approve a draft code if the Commission is satisfied that the draft code meets all the requirements set out in this Act.
- 4 Amendment of approved code initiated by Commission**
- (1) The Commission may prepare an amendment to the approved code or revoke the approved code if the Commission considers that the approved code no longer meets all the requirements set out in this Act.
- (2) The same procedure that applies to making a code in clauses 2 and 3 must be followed to make an amendment or a revocation.
- 5 Public notice of approved code**
- The Commission must give public notice of—
- (a) the approved code; and
 - (b) every amendment or revocation of the approved code.

1552U Fibre optic connections that owners of existing works must provide to landowners

Standard connections

- (1) If the distance between the breakout point (or equivalent) and the connection point is 200 metres or less, the owner of the existing works must provide the landowner with a standard connection.
- (2) The owner of the existing works provides a standard connection by aerially installing up to, and including, 200 metres of fibre optic cable between the breakout point (or equivalent) and the connection point, at no cost to the landowner.

Non-standard connections

- (3) If the distance between the breakout point (or equivalent) and the connection point is more than 200 metres, the owner of the existing works must provide the landowner with a non-standard installation.
- (4) The owner of the existing works provides a non-standard installation by—
- (a) aerially installing up to, and including, 200 metres of fibre optic cable along the distance between the breakout point (or equivalent) and the connection point, at no cost to the landowner; and
 - (b) contributing 50% of the costs of aerially installing fibre optic cable over the remaining distance, up to, and including, 500 metres, between the 200 metres installed under paragraph (a) and the connection point.

Rights and obligations of owner of existing works and landowner where aerial installation not possible

- (5) Despite subsections (1) to (4), if an aerial installation is not practicable and trenching is required at any point,—
- (a) the landowner must provide, or meet the cost of, that trenching; and

- (b) the obligation of the owner of the existing works is not affected, except to the extent that, in any place where the fibre optic cable cannot be installed aurally, the landowner is responsible for trenching in that place as provided in paragraph (a).

Variations

- (6) Nothing in this section prevents an owner of existing works and a landowner from entering into an agreement to replace or vary the rights and obligations concerning the installation of a fibre connection to a building on the landowner's property provided for in this section.
- (7) In this section, an **equivalent**, in relation to a breakout point, means any means by which the owner of the existing works provides the landowner with the capability to connect to a fibre-to-the-premises access network, as referred to in section 155ZT(2)(b), other than by including a breakout point.

Appendix C: Summary of submissions

This table provides a summary of submissions and proposals received in response to the Request for Views paper.

The submissions and proposals are aligned to the requirements in the Code.

I. <u>Requirement to give notice of proposed withdrawal of copper service</u>			
1.	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.		
1.1	Spark	<p>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.</p> <p>The key information end users 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. Chorus’ proposal to amend the notice process provides this additional clarity to customers around the date of withdrawal.</p>	Para 39-41
1.2	Mercury	Majority of end users have sufficient understanding of the copper withdrawal process and how it affects them.	Annex para 1
1.3	Consumer NZ	Not all end users understand the process and how the withdrawal of copper services will affect them. Elderly people seem particularly confused by the process creating stress for some consumers and impacting their ability to communicate and connect. Commission consider funding a freephone service and printed materials to produce further guidance.	Page 1 and 2
1.4	Proposal: Amend the notice process to improve clarity of outcome for end-users		
1.4.1	TCF	Supports amending the final notice and that a consistent intended withdrawal date is given to the end user in all communications. These amendments will provide more clarity on the potential outcomes for consumers with the actual intended withdrawal date, remove the requirement to send a separate notice within a month after the notice period ends and minimise risk of consumer confusion with the process.	Para 6i
1.4.2	Chorus	Chorus recommend adjusting and simplifying the notification process. The fourth notice requirement and the cadence between notices, together with the definition of “notice period”, is confusing and may inhibit consumers taking necessary action to obtain an alternative service.	Para 10

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1.5	Proposal: Amend the definition of “notice period” to clarify that the end of notice period is not the same date as when copper withdrawal will take place		
1.5.1	Chorus	<p>The Code requires Chorus to include the proposed date of withdrawal in its notices to impacted consumers (clause 25.1) as well as an explanation of the Code process and timeframes. The relevant definitions appear to inadvertently conflate the “notice period” ending with the “proposed date of withdrawal”. This is because rather than the end of notice period being at least 6 months from the date of the First Notice, it is defined as the “proposed date of withdrawal of the copper service”. In principle, the withdrawal date must follow the end of the notice period.</p> <p>This confusion arises because Chorus cannot withdraw copper until the notice period has lapsed – and have satisfied themselves that their Code obligations have been met. Additionally, consumers who receive a Confirmation Notice will receive a different withdrawal date again, resulting in confusing and inconsistent messaging (if the requirement for a Confirmation Notice remains).</p> <p>Chorus proposed a definition of 'Notice period' as:</p> <p>a. “Notice period” means the period between the date the First Notice is provided to an end-user and the proposed date of withdrawal of the copper service delivered to an end-user, and a date at least 6 months from the date of the First Notice.</p>	Para 18-20
1.5.2	TCF	<p>The definitions appear to conflate the “notice period” ending with the “proposed date of withdrawal”, which is potentially confusing (as both concepts are communicated via Chorus notices). The “proposed date of withdrawal of the copper service” is envisaged as being directly at the end of the notice period. Currently, a notice period is a minimum of 6 months given to impacted consumers and applies to the overall process of copper withdrawal. At the end of the notice period, Chorus must assess if it has met its obligations under the Code. If it has, it may proceed with withdrawal i.e., the proposed withdrawal date comes after the end of the notice period.</p>	Para 7i
1.6	Proposal: Remove the requirement for “Confirmation” and “Continuation” notices		
1.6.1	Chorus	<p>Overall process would be improved if the Final Notice was the final notice – rather than the third of four notices where a Confirmation or Continuation Notice is actually the final notice. The Confirmation and Continuation notices change the overall message given to consumers, particularly where a consumer receiving one of these notices has a fibre install in progress (e.g., a late order or a slower install).</p> <p>For instance, a consumer receiving a Continuation Notice while fibre order in progress but not complete can lead to the consumer cancelling the order. Another possible scenario is where a consumer places a fibre order after the end of notice period and then receives a Confirmation Notice to confirm that their copper is about to be withdrawn because they have not moved off copper. Neither in Chorus’ view provides extra clarity and can inadvertently prevent fibre installs progressing – resulting in a number of copper services and cabinets remaining, which could have been avoided.</p>	Para 21-22
1.6.2	One NZ	<p>Remove the requirement of Confirmation Notices as sending a separate notice within a month after the notice period ends causes confusion and can lead to poor experience for customers. The Final Notice should be the last notice that consumers receive from Chorus (providing Chorus has met the minimum requirements and is not required to continue the copper service) and for it to include the ‘actual intended withdrawal date’. The withdrawal date should be consistent across all of the communications sent to the customer, both from Chorus and their RSP.</p>	Para 2-3

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1.6.3	Spark	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.	Para 27
1.6.4	Consumer NZ	No requirement to send a separate notice within a month after the notice period ends.	Page 4
1.7	Proposal: Amend the content of the “Final Notice”		
1.7.1	Chorus	Proposed amending the Final Notice to communicate the “outcome” at that point in time, rather than after the notice period ends. That is, to outline that copper will be disconnected by the proposed withdrawal date.	Para 25
1.7.2	Spark	Supported making the ‘date of withdrawal’ a more meaningful milestone. RSPs and Chorus use the same dates and having a focus from the first notice on the ‘date of withdrawal’ will benefit all parties.	Para 3-4
1.7.3	Consumer NZ	It is better to communicate and confirm the outcome for consumers in the Final Notice to simplify the process and ensure that consumers are provided with a definitive date for withdrawal as early as possible, rather than conflicting dates in different notices.	Page 4
1.8	Proposal: Shortening the duration between each notice/Amend timing of notices within the notice period		
1.8.1	Chorus	<p>The timeframe between each notice may cause consumers to forget they have received earlier notices or lose track of where they are in the process.</p> <p>There is no flexibility built in, can be tricky/difficult depending on the time of year and having more flexibility around the notice date would help ensure consumer-centric timeframes.</p> <p>Recommended amending the Code so that:</p> <ol style="list-style-type: none"> a. The Further Notice must be provided no earlier than 1 month after the date of the First Notice and no later than 2 months after the date of the First Notice, and b. the Final Notice must be provided no earlier than 2 months before the end of notice period and no later than 1 month before the end of notice period. <p>These changes should help drive more urgency and serve as better reminders for consumers to act sooner and ensure continuity of service (i.e., it will minimise the risk of consumers experiencing a period of no connectivity due to failure to act).</p> <p>Having a longer time between the Final Notice and end of notice period, where consumers order fibre, means a smoother transition for consumers and industry members who are required to comply with the Code. The current 20 working days sometimes result in the consumer cancelling the fibre order (notwithstanding that the notice indicates that their copper will remain only until their fibre order is complete). This adds complexity, typically</p>	Para 13-17

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		occurring with consumers whose install process is more difficult (e.g., requiring third-party consent or in a slightly less urban area) or where field services require more time to complete it.	
1.8.2	TCF	The length between the notices is long and the end user could be better reminded if the notices were sent closer together in time – with the purpose of helping drive more urgency and action.	Para 7ii
II. Requirement regarding how Chorus must provide notice			
2.	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?		
2.1	Spark	Most copper withdrawal customers have taken a fibre service suggesting customers understand that a fibre option is available to them.	Para 42
2.2	Mercury	End users, in general, are aware of the fibre service options that are available to them.	Annex para 2
2.3	Consumer NZ	Not all consumers are receiving information that enables them to understand the alternative options available to them. Consumers don't always understand the information they have been provided, seeking clarification as a result.	Page 2
2.4	Proposal: Allow for notices to be sent to alternative postal addresses		
2.4.1	TCF	Allow Chorus to post to an alternative address to solve issues where, for example the end user does not reside at the premises where the copper is being withdrawn or there is no letterbox. It is a collaborative effort between Chorus and the RSPs to ensure notices are correctly delivered to a suitable address for the end user. Alternative address information provided by RSPs can only be best efforts as RSPs may not always have the correct mailing address for the customer for various reasons. This change will provide for a better outcome and engagement with affected end users and will enable Chorus to formalise its operational process for circumstances where the primary address is not the appropriate one for communicating.	Para 6ii
2.4.2	One NZ	Chorus should be able to post withdrawal notices to an alternative address, where known and as appropriate. The information provided will be best efforts only as OneNZ may not always have the correct mailing address.	Para 4
2.4.3	Chorus	Consumers would benefit from flexibility to cater for specific needs and scenarios. Recommended Notices to be delivered to an alternative postal address, when Chorus knows (or is told) that an alternative address (such as a PO Box or alternative residential address for the homeowner) would serve a better alternative for communication.	Para 26-28

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		Allowing flexibility for alternative addresses and communication channels will help ensure impacted consumers are more likely to receive and comprehend notices – and thereby more likely to take appropriate action to move off copper. It also supports inclusive practices and accessibility needs which some consumers may face due to the solely physical form of the notices.	
2.4.4	Spark	Support Chorus' proposal subject to an acknowledgement that any address information provided by the RSP is provided on a best effort basis and Chorus still having the obligation to reach out to the customer at their correct address.	Para 8-9
2.5	Proposal: Allow for flexibility with communication channels		
2.5.1	TCF	There should be a range of communication channels for consumers to receive important information that may impact their telecommunications service. RSPs already communicate with customers affected by copper withdrawal via a range of different channels, including mail, email and phone calls. Code to have more flexibility in how an end user may access the notice in addition to posted mail or mail drop, particularly for those consumers who may have a disability or English is not their first language. Code should not introduce a requirement for RSPs to share alternative contact information.	Para 6iii
2.5.2	One NZ	<p>The obligation for Chorus to send written mail communication to the site that is affected by copper withdrawal should remain.</p> <p>No particular need for Chorus to communicate directly to customers via email or phone call and would not support a requirement for RSPs to share this information being added to the Code.</p> <p>If Chorus were to communicate with affected consumers via different channels, such as email, (in addition to mail communication) when opted-in by consumers, it would need to be accompanied by a requirement for Chorus to:</p> <ul style="list-style-type: none"> i. ensure that the communication is strictly limited to the specified 'first' 'further' and 'final' notifications with no scope to expand beyond copper withdrawal notifications or into any new notifications around copper withdrawal; and ii. share their data retention policy around gathering, storage and disposal of this customer information. <p>Any expansion of the means by which Chorus communicates directly with end users would need to be accompanied by commitments to refrain from offering incentives for consumers to move to a particular technology when transitioning off copper or other marketing behaviour.</p>	Para 5-8
2.5.3	Chorus	The Code should better support consumers' needs by allowing for notices in electronic form. i.e., consumers could use electronic applications or more easily share the notice with others (e.g., landlords and family members).	Page 3
2.5.4	Chorus	Recommended flexibility with communication channels - for example where post or courier is not a viable mode of communication/delivery, and/or an electronic version of the notice is preferred (e.g., visually impaired consumers may wish to use a reader/writer app, while some consumers may require translation tools). An electronic version of the notice would also help consumers to share notices with others (e.g., friends, family, landlords, body corporates or providers of ancillary services) much more efficiently.	Para 27-28

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		Allowing flexibility for alternative addresses and communication channels will help ensure impacted consumers are more likely to receive and comprehend notices – and thereby more likely to take appropriate action to move off copper. It also supports inclusive practices and accessibility needs which some consumers may face due to the solely physical form of the notices.	
2.5.5	Spark	<p>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.</p> <p>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.</p> <p>End users’ contact information should only be used by Chorus for the purposes of the copper withdrawal and not for general marketing; and should be deleted after the withdrawal is completed so that Chorus does not retain end user information.</p> <p>Chorus be required to relay a customers’ election to receive communications by a means other than postal delivery to that customer’s RSP.</p>	Para 10-13
2.5.6	Mercury	Code to enable Chorus to work with RSPs to confirm customers’ contact details and their preferred mode of communication (e.g., post, email, text messages, etc.); appropriate contact details are not always readily available.	Annex para 1
III. Requirement for reasonable notice of the proposed withdrawal of the copper service			
3.	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?		
3.1	Spark	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. The current timeframe provides the right balance.	Para 43-44
3.2	Mercury	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.	Annex para 3
3.3	Consumer NZ	Consumers have a reasonable amount of time to prepare for a proposed withdrawal.	Page 3
3.4	Proposal: Add a 'pause' in response to an extreme or unforeseen event		
3.4.1	TCF	Recent events such as the pandemic and Cyclone Gabrielle have shown that there is need to be flexible and adapt to certain things to support our communities. The Code should enable Chorus and affected RSPs to pause its withdrawal process and focus on supporting end users during particular	Para 6iv

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		circumstances. Should the Commerce Commission agree to this pause Chorus, RSPs and LFCs will need to reflect this in their agreed operational processes for communicating the start, and end, of pauses and revised withdrawal dates.	
3.4.2	One NZ	A 'pause' mechanism has already been used on specific exceptional occasions and the Code should reflect this function.	Para 9
3.4.3	Chorus	Allows Chorus to be flexible and responsive to external events by permitting the process to be 'paused' and extending the timeframe for impacted consumers to move off copper.	Page 3
3.4.4	Chorus	Recommended that a 'pause' mechanism is formally included in the Code. There is a gap in the Code, and a need to for industry to respond to unforeseen events. Allowing for the notice period to essentially 'freeze' in time is consistent with the objective of consumer protection and helps ensure consumers are given a more reasonable time to migrate off copper. That is, a pause would not change the minimum length of time for consumers to migrate, it allows Chorus to 'add time' during the notice period. This change would improve the experience for impacted consumers. A 'pause' mechanism will also help the industry to respond and adapt to unforeseen/unplanned events.	Para 29-30
3.4.5	Chorus	Recommended that a pause mechanism include the following features: <ul style="list-style-type: none"> a. Chorus must be satisfied that the withdrawal process requires pausing for some or all consumers in response to an extreme and/or unforeseen event. b. Chorus to advise the Commission when it has undertaken a 'pause' and would not be a request for approval. That is, it would not be appropriate or in the best interests of consumers to require the Commission to formally approve a pause ex-ante. Rather, it would make more sense for the Commission to be updated by Chorus during and after the period. c. Chorus will update impacted consumers about the pause – including when it commences and when it is lifted, and what this means for their notice period. Chorus' ability to communicate during certain events may be challenging and the industry may need flexibility around this. d. The duration of the 'pause' is added to the notice period length so that consumers are not worse off from a copper withdrawal perspective. 	Para 31
3.4.6	Spark	There should be a formal mechanism for Chorus to pause the copper withdrawal process due to unexpected events. 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.	Para 14-15
3.4.7	Spark	The continuation notice (for when the withdrawal needs to be deferred after the final notice), could be considered as a pause scenario.	Para 27
3.4.8	Consumer NZ	Adding a mechanism that would allow Chorus to pause and extend the copper withdrawal process. The recent flooding and the impacts of Cyclone Gabrielle have illustrated the need for this.	Page 4

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3.4.9	Mercury	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.	Annex para 3
IV. Requirement for connection to a fibre service to be installed			
4.	Question 4: In your experience, are end-users able to have a fibre service (providing similar functionality) installed by Chorus within a reasonable timeframe?		
4.1	Spark	Installation delays suggest fibre is not available within reasonable timeframe in some cases and customers are able to retain their copper service until the new fibre service is in place. This is a wider issue than the copper withdrawal code.	Para 45-46
4.2	Mercury	The shortage of technicians impacting the install timeframes for Copper Withdrawal end users is outside the control of the copper withdrawal process.	Annex para 4
4.3	Consumer NZ	Consumers who want to get fibre installed have to deal with multiple cancellations and delays.	Page 3
4.4	Proposal: Removing the ability for third parties to prevent copper withdrawal		
4.4.1	One NZ	Acknowledging Chorus' difficulties, supported removing the ability for third parties to block copper withdrawal.	Para 10
4.4.2	Chorus	<p>The current Code lets third parties prevent copper withdrawal. Where someone wanting fibre, whose install is impeded by their neighbour or landlord withholding consent, takes reasonable steps available to them to resolve the issue then Chorus may (if the issue isn't resolved) remain unable to either install fibre or withdraw copper, on an ongoing basis.</p> <p>The key minimum requirement here is that an end user be able to have fibre installed. The Commission considers this requires an actual install, reflecting its view that consumer protection is the more important purpose and on the basis that end users prevented from getting fibre will have certainty they will be able to continue to access a fixed line service.</p> <p>The impact of this 'deadlock' is significant as even one service remaining on a cabinet or exchange prevents decommissioning that cabinet or exchange.</p>	Para 34, 36, 37, 39, 41

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		<p>The Code does not currently place enough onus on consumers and third parties to resolve installation issues, because copper can remain as a backstop. This weakens a consumer’s incentive and ability to resolve these issues. A result that consumers are prevented from, rather than supported in, moving to a fibre service that they want cannot be considered effective consumer protection.</p> <p>There are a lot of situations where third-party involvement is needed – to date, for approximately 1 in 3 cabinets.</p>	
4.4.3	Chorus	<p>The limited exception of determining whether there has been a consumer failure to take "reasonable steps" is too difficult to apply given the wide range of permutations of these third-party circumstances and contexts.</p> <p>Certainty that copper is going to be withdrawn helps to force the hand of a landlord or a third-party resistant to a fibre installation.</p> <p>Amend the Code to enable copper to be withdrawn where a consumer is informed there’s a third-party constraint on their fibre installation and informed of what steps are available to them, but the dispute remains unresolved after a reasonable period (e.g., where a third-party does not respond or continues to impede the installation). Chorus considers three months is sufficient time to identify and resolve a dispute.</p> <p>The current (narrow) ability to withdraw only where a consumer chooses not to take steps available to resolve an issue would fall within this broader, amended exception. Chorus’ recommendation acknowledged that impacted consumers need time to resolve issues and disputes, and that it is important they are given clear information about their options. However, it also reflects that copper should not be required to remain due to issues between private parties being at an impasse.</p>	Para 42, 44, 45, 46
4.4.4	Spark	<p>Do not support Chorus being permitted to withdraw copper services from customers who cannot connect to fibre.</p> <p>While it is frustrating for Chorus that a third-party is preventing the fibre installation the proposal risks leaving customers without a viable service. Chorus should play a more active role in supporting these customers to get the necessary consents.</p>	Para 17-19
4.4.5	Spark	<p>Chorus’ proposal potentially leaves customers without a key Code 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.</p> <p>The proposal leaves Chorus with little incentive to help customers resolve difficult consent issues. The framework should encourage Chorus to support migrating customers to resolve these issues, backed up by Chorus access rights under the Act.</p> <p>Supports Chorus’ contention that third parties should not be able to block installation of fibre lead-ins to facilitate copper withdrawal but expects the correct mechanism for affecting this change is legislative, rather than through the Code.</p>	Para 22, 23, 25

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4.4.6	Consumer NZ	The Code should be clarified so that copper withdrawal is not prevented where the consumer wanting fibre has taken reasonable steps available to them to resolve the issue but is being prevented by a third-party or parties to get it installed. Where the third-party issue extends beyond a reasonable time, then Chorus should not be required to keep the copper service running.	Page 4
4.4.7	Mercury	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.	Annex para 5
V. <u>General Questions (any other proposals)</u>			
5.	Question 5: Do you have any changes you would suggest making to the Code to improve its effectiveness and outcomes for end-users?		
5.1	Proposal: Clarify standard and non-standard connections		
5.1.1	Spark	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. Highlighted Chorus’ indication on their ability to charge customers going through the copper withdrawal process if they believe the circumstances warrant it. Spark sought clarity on the ‘no-cost’ definition, so that the cost of a non-standard installation is funded by Chorus in circumstances such as infills, in cases where local fibre companies (LFC’s) may have a non-standard installation fee or where premises was built and connected to copper after the SFA was determined.	Para 26, 29-36, 47
5.2	Proposal: Map to view withdrawal date		
5.2.1	Spark	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.	Para 48
5.3	Proposal: Forecasts to RSPs		
5.3.1	One NZ	Chorus to provide RSPs in advance with the forecasts of the size and location of planned copper withdrawal. Supporting customers through the transition to alternative telecommunications services is a resource intensive process at the best of times, but even more so for unengaged or reluctant customers. Visibility of Chorus’ longer-term plans would help forecast and plan for the right level of resources and budget this project will require over the coming years so we can continue to support our customers effectively.	Para 12-13
5.4	Proposal: Exceptions to the requirement for connection to a fibre service to be installed – where an alternative service is available		
5.4.1	Chorus	Availability of other options is not currently taken into account in the context of third-party constraints and Chorus can be prevented from copper withdrawal. While fibre is the best option, other technologies like fixed wireless and satellite provide an acceptable alternative.	Para 47-49

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		<p>Chorus’ recommendation would incentivise and enable a more robust exploration of alternative services as between RSPs, consumers, landlords and neighbouring landowners, which does not always happen today where at least the RSP, and consumer have background on the Code and know copper can only be withdrawn in certain limited circumstances.</p> <p>This proposal would better facilitate actual withdrawal against the backdrop of private parties’ rights under the Utilities Disputes Limited resolution mechanism for land access, and the Residential Tenancies Act mechanism for landlord approval. In lowering a practical barrier to withdrawal, it would also better reflect the statutory purpose of enabling deregulation and withdrawal, by confirming that Chorus should not be required to keep these cabinets running indefinitely for reasons outside its control.</p>	
5.4.2	Spark	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.	Para 24
5.4.3	One NZ	Do not support Chorus being able to proceed with copper withdrawal where an alternative service is available, such as fixed wireless or satellite. Chorus should continue to be incentivised to help consumers get the necessary permissions to support the installation of fibre in these edge cases.	Para 11
5.4.4	Consumer NZ	Clarify the Code to allow consumers to be able to access fibre or an alternative service in third-party circumstances.	Page 4
5.5	Other proposals		
5.5.1	Spark	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. This should be formalised in the Code by clarifying that section G1 applies to orders placed anytime between the First Notice and when the copper is finally disconnected.	Para 49
5.5.2	Spark	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.	Para 50
5.5.3	Mercury	Mercury 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.	Annex para 5
6.	Question 6: To what extent are the roles of Chorus and RSPs not sufficiently clear to end-users and how can this be improved?		

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6.1	Spark	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.	Para 53
6.2	Mercury	Majority of end users have sufficient understanding of the copper withdrawal process and how it affects them. The Code to address Spark PSTN withdrawal and Chorus Copper withdrawal overlap 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.	Annex para 1 and 2
6.3	Consumer NZ	More could be done to assist consumers to understand the distinction. This could be improved by the Commission creating clearer, consumer-centric, guidance. It would also be useful if consumers only had to deal with their RSPs, rather than both their RSPs and Chorus (or other local fibre company). This would also mean consumers were less likely to reach a dead-end when things go wrong.	Page 4

Appendix D: Summary of proposed changes

This table provides a summary of proposed changes to the Code.

ID	Category	Current position	Change	Description	Relevant current Code section / clause
1	Notice Changes	Current notice names are First Notice, Further Notice and Final Notice	Update notice naming conventions	Notices to be re-named from “First Notice” to “Notice 1”, from “Further Notice” to “Notice 2” and from “Final Notice” to “Notice 3”	C, 5.2, 9, F1, F2, F3, F4, F5, F7, 37,38, 52.1, 64.2, 65.3
2	Notice Changes	Absent in current Code	Include statement/information in notice	Add flexibility to Chorus in relation to end-user communications	F3
3	Notice Changes	Code provides for a ‘proposed date of withdrawal’ (i.e., the date Chorus intends to stop supplying the copper service)	Remove the requirement to include a ‘proposed date of withdrawal’. Amend the term name to ‘withdrawal date’ and the term content to reflect that ‘withdrawal date’ comes after ‘the notice period ends’	Corresponding changes to definitions (see separate line items for detail)	C, 14, 17, 18, 21.2, 25.1, 31.1.2, F7, 36
4	Definitions	N/A	Amend ‘proposed date of withdrawal’	Change to ‘withdrawal date’ and clarify that the date Chorus intends to stop supplying copper service comes after the date the notice period ends	C
5	Definitions	N/A	Amend ‘notice period’	Remove proposed date of withdrawal, and add that it is a date at least six months after Notice 1	C

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6	Notice Changes	Absent in current Code	Date of issue of Notice 1, RSP notice, RFSP notice	<p>Notice 1 is provided to the end-user no later than six months before the date the notice period ends</p> <p>The RSP notice is provided at the same time Chorus provides Notice 1 to the end-user</p> <p>The RFSP notice is provided no later than one month before Chorus provides Notice 1 to the end-user</p>	F1 (14, 19, 21)
7	Notice Changes	Absent in current Code	Information to be provided in notices	<p>Remove 'proposed date of withdrawal' from all Notices</p> <p>Notice 1, Notice 2 and Notice 3 and include 'date the notice period ends'</p> <p>Include 'withdrawal date' in Notice 3</p>	F1, F3 (25), 31
8	Notice Changes	RSP and RFSP notices include the proposed date of withdrawal	Notice to RSPs and RFSPs to include 'date the notice period ends' instead of 'proposed date of withdrawal'	<p>Include 'date the notice period ends' to RSP and RFSP notices; (Chorus continues to give notice to RSPs and RFSPs of proposed stop of supply of a copper service)</p> <p>Inform withdrawal date to RSP and RFSP in parallel to Notice 3</p>	F1, 30-31
9	Notice Changes	Absent in current Code	Notice 3 to include the 'withdrawal date' (Information to be provided in notices)	Notice 3 includes the withdrawal date	F3
10	Notice Changes	Code provides for Confirmation Notice to be issued communicating the outcome	Remove the Confirmation Notice	No longer required	C, 17, 18, H1 (53-55), 64.2
11	Notice Changes	Absent in current Code	Notice 3 to be provided to the end-user, the end-user's RSP and RFSP confirming 'withdrawal date'	Chorus to inform the end-user's RSP and the RFSP at the same time it provides Notice 3 to the end-user	F1

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12	Notice Changes	Absent in current Code	Withdrawal date subject to change	If an end-user orders a retail fibre service after receipt of Notice 3 but within the notice period, the 'withdrawal date' is subject to change and Chorus should follow the 'minimum requirements in relation to end-users who order a retail fibre service' set out in Part G	G
13	Timing	First Notice is issued no later than six months before the proposed date of withdrawal, and the Further Notice is issued at three months before the proposed date of withdrawal	Reduce duration between Notice 1 and Notice 2, provide flexibility for timing of the issue. Increase momentum, surface postal addressing issues sooner in the cycle, provide additional operational flexibility for Chorus during extended public holidays	Notice 2 to be issued no earlier than two months after the date of Notice 1 and no later than three months after the date of Notice 1	17
14	Timing	Further Notice is issued at three months before the proposed date of withdrawal and Final Notice is issued at 20 working days before the proposed date of withdrawal	Reduce duration between Notice 2 and Notice 3 provide flexibility for timing of the issue	Notice 3 to be issued no later than 30 working days before the end of the notice period, no earlier than 40 working days before	18
15	Timing	The Code provides for a Final Notice to be issued at 20 working days before the proposed date of withdrawal	Extend the time period between Notice 3 and the end of the Notice Period	The time period between Notice 3 and the end of the notice period will be increased from the current 20 working days to 30 working days	18
16	Notice Changes	Notice to the end-user must be addressed to the premises where the end-user resides and that Chorus must, in the first instance, deliver the notices by posted mail. However, where Chorus has been unable to deliver a notice by postal operator, it must deliver the notice by a physical letter-drop to the premises	Allow for Notices to be sent to alternate postal address and via alternate communication channels	Code to allow for notices to be delivered to an alternative postal address subject to Notice 1 being delivered to the copper-connected premises Allow the use of alternative communication channels to meet consumers' preferences	F1, F4(27-29)

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17	End-User Data	Chorus to generically address the end-user notices, not to be addressed to the name (no additional information) of the particular end-user. Any notice that Chorus is required to provide to an end-user under the Code must be addressed to the premises where the end-user resides (e.g., “to the occupant of [insert premises address]”)	Except for Notice 1, allow Chorus to tailor notices to the end-users’ communication preferences	End-user information is only used by Chorus for the purposes of delivering notices This information is shared with the RSP and RFSP where relevant to do so	F1, F3 (25-26), F4 (27-29)
18	Pause Notice (premise-level)	The Code provides for a specific type of pause as an available option that can be triggered during an end-user’s notice period under the Dispute Resolution clause	Allow Chorus to apply a pause to the process at any time during the notice period in case of premise-level delays (in context of third-party delays)	Applicable under the ‘minimum requirements in relation to end-users who order a retail fibre service’ Reason for the pause to be captured and communicated to the end-user Notification is sent to the end-user, the RSP and the RFSP with an estimate of how long the pause will be applied for (no greater than 45 working days) Duration of pause is added to the notice period If no outcome in 45 working days, Chorus to follow minimum requirements under G4	G, New section/clause
19	Pause Notice (premise-level)	Absent in Code	Allow Chorus to remove a pause to the process at any time during the notice period in case of premise-level delays (in context of third-party delays)	Confirmation that the reason for the pause to be originally applied has been resolved, to be captured and communicated Notification is sent to the end-user, the RSP and the RFSP	G, New section/clause
20	Definitions	Absent in Code	Include ‘extreme or unforeseen event’ definition	Include Chorus’ ability to apply a pause to the notice period in these circumstances	C

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21	Pause Notice (extreme or unforeseen event)	Absent in Code	Allow Chorus to apply a pause to the process at any time during the notice period only when circumstances fall under an extreme or unforeseen event	<p>Applicable under the definition of an extreme or unforeseen event</p> <p>Notification is sent to the end-user, the RSP and the RFSP, when pause is applied and lifted</p> <p>Duration of pause to be added to notice period</p> <p>Chorus to advise the Commission when it has undertaken 'pause'</p>	G, New section/clause
22	Pause/Information Disclosure	Absent in Code	Chorus to disclose Pause information (Premise-level delay in context of third-party delays)	<p>Chorus to provide pause information in relation to premise-level delays with annual disclosure to show:</p> <ul style="list-style-type: none"> - the number of pauses it has applied; - the date each of these pauses was applied and lifted; - for the pauses related to a third-party delays that did resolve within 45 working days, the number that resolved and the reasons why - for the pauses related to a third-party delay that did not resolve within 45 working days, the number that did not resolve and the reasons why 	J, K
23	Information Disclosure	Absent in Code	Chorus to disclose the number of copper services withdrawn	Chorus to disclose the number copper services withdrawn	J, K
24	Information Disclosure	Absent in Code	Chorus to disclose the number of copper services withdrawn	Chorus to disclose the number of copper services withdrawn where fibre has not been installed	J, K