



New Zealand Telecommunication Forum

Project Proposal

Name of Proposer: Chorus

Date Submitted: 18 October 2018

1. Introduction

The Telecommunications (New Regulatory Framework) Amendment Bill provides for significant change to the Telecommunications Act 2001 (**the Act**). This project proposal addresses the new provisions of the Act (Part 2AA) that de-regulate copper fixed line services in specified fibre areas (Clause 7 new section 69AB). Specifically, the Act is expected to state that for Chorus to withdraw copper services in a specified fibre area it must abide by a code which sets out minimum requirements to protect those end-users of copper services.

2. Issue

Once the Bill is enacted, Schedule 2A of the Act will provide for the preparation of, and requirements for, a Copper Withdrawal Code (**the Code**). This code will be approved by the Commerce Commission (**Commission**). We anticipate that the Act will allow for the Commission to either prepare the code or request that the TCF prepare the code on its behalf. The Code must set out minimum consumer protection requirements for end-users of the following:

- Copper fixed line access services in areas that become specified fibre areas;
- Chorus's unbundled copper local loop network; and
- Chorus's unbundled copper local loop network backhaul (distribution cabinet to telephone exchange).

The Code will be implemented in a timeframe established by the Commission.

3. Background

Statutory responsibility for the development of the Code rests with the Commission. The formal process which must be followed in the development of the Code will be set out in the Act. The Commission, or the TCF if it were formally requested by the Commission, must:

- Publicly notify the process that will be followed to make the Code;
- Consult with interested persons;
- Give public notice of a draft Code for public consultation;
- Accept submissions up to 30 working days after the date on which public notice of the draft Code is given.

The Code will have implications for Chorus, the LFCs and also RSPs. The Code will be enforceable under the provisions of the Act.

TCF staff have liaised with the Commission to understand its likely process for the Code. The Commission has advised the TCF that it will not be formally requesting the TCF to develop the Code. We understand that the Commission considers that to do so would place it in a position of having to make a binary decision about approval or non-approval of the draft code.

In order to address the above issue the Commission has indicated to the TCF that it will delay giving public notice of its process until April 2019, at which time it will seek submissions in May 2019. The reason it is waiting until April 2019 is to allow the TCF time to develop a draft code. The Commission can then consider the TCF draft as a submission and amend or adopt accordingly.

4. Project Proposal

Chorus proposes that a TCF working party be established to develop a draft Code that meets the requirements of the Act.

The working party would aim to complete the draft Code by the end of April 2019 for submission to the Commission in May.

Chorus recommends that the proposed Copper Withdrawal Code Working Party be separate from the TCF Copper Migration Working Party as it needs to focus specifically on delivering the draft Code before May 2019. Both work streams would continue in tandem, and probably involve the same people, as many of the industry processes will be similar.

The Commission could be invited to participate in the working group so that there was transparency about the progress and content of the Code.

By providing a draft Code to the Commission as a formal submission, the TCF could shape the final Code which would assist with ensuring it is consistent with industry processes, meets the requirements of the Act, and is workable.

5. Proposed Project Scope

The working party will be responsible for the drafting of the Code.

As part of this project the following is in scope and will be detailed further in the project scope document:

- The minimum requirements the Code must include as described in the Act;
- Provisions that allow for the smooth transition of an end user's copper service to a fibre service connection;
- Provisions that allow for Chorus, LFCs and RSPs to deliver a good customer experience;
- Consideration for needs of vulnerable end users.

Out of scope would be any commercial negotiations which might be required between any of the parties to the Code.

6. Working Party Membership

The working party is to include the following key stakeholders:

- TCF Members
- TCF Project Team
- Commerce Commission representative

7. Roles and responsibilities

Chorus

Chorus will provide expertise and subject matter experts to the working party and actively participate in the process to assist the TCF to deliver the project on time.

The TCF

The TCF is responsible for:

- administering the working party and providing project management support;
- drafting the Code in accordance with the Act;
- delivery of a draft Code by the date the Commission sets for the receipt of submissions.

8. Expected Deliverables

As part of this project the following will be delivered by the working party:

- project scope document;
- agreed project plan and timeline;
- regular reporting to TCF Board;
- draft Code completed in accordance with the Act and provided to the Commission by the date the Commission seeks formal submissions.

9. Options Available

Following the passage of the Bill the Code will be required under the Act. In light of the indication from the Commission that it will not formally request the Forum to develop the Code, two options are available:

- Option 1. The TCF could take no action and individual members to make their own submissions in response to the formal Commission request; or
- Option 2. The TCF prepares the Copper Withdrawal Code which is provided to the Commission as a formal TCF submission.

Preferred Option

This proposal recommends option 2: that the TCF commence with the development of a Code. The TCF has experience in developing Codes, it understands current industry installation processes, and has the confidence of the industry. It will be a more efficient process and better outcome for the industry.

10. Proposed Timeline

The below is a proposed timeline to deliver the Code by 1 January 2020:

Dates	Topic	Task
October	Project Planning	Bill receives 3rd Reading
Oct-18		Approval: TCF Board approves Chorus Project Proposal.
Oct-18		TCF Working Party established
Oct-18 - Dec 18 Jan 19 - April 19 May-19 TBC-19	Code Development	TCF Working Party review list of issues / matters for consideration. Code drafted Draft Code approved by TCF Board as a submission to the Commission. Commission Seeks submissions on its draft Code (based on the TCF Code)
Nov-19		Approval: Commissioners Approve Final Code
Dec-19		Publication: Final Code
Copper Withdrawal Code Implementation Date		

11. Recommendation

That the TCF Board:

- 1) **Approve** this project proposal.