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TRUSTPOWER SUBMISSION: COMMISSION 111 CONTACT CODE – EMERGING VIEWS PAPER

1 Introduction

- 1.1.1 Trustpower Limited (**Trustpower**) welcomes the opportunity to provide a submission to the Commerce Commission's (**the Commission**) *111 Contact Code Emerging views paper (Emerging views paper)*.
- 1.1.2 Following amendments to the Telecommunications Act 2001 (**the Act**), several sections of the Act seek to put in place protections for telecommunication end-users in New Zealand as the country transitions away from the copper network to next generation technologies.
- 1.1.3 One example of this section 238 of the Act which will result in a 111 Contact Code (**the Code**) being established, which is intended to ensure vulnerable end-users, or persons on their behalf, have access to an appropriate means of contacting the 111 emergency service in the event of a power failure.
- 1.1.4 Section 238 (3)(d) of the Act places obligations on providers of telecommunication services to supply a vulnerable end-user, at no cost to them, with an appropriate means for contacting the 111 emergency service in the event of a power failure.

2 Background information

Trustpower's experience

- 2.1.1 In the electricity sector Trustpower was instrumental in the establishment of the Vulnerable Customer and Medically Dependent Customer Working Group (**VCMDC Working Group**) and continues to be actively involved. The working group is currently engaging with Housing New Zealand, the District Health Boards (**DHBs**) and network companies to address the complex issues that form andacerbate energy poverty.¹
- 2.1.2 This work includes:
 - a) increasing communication between networks, retailers and vulnerable or medically dependent consumers in the event of a planned or unplanned outage;

¹ As outlined in the EPR Section B: Reducing Energy Hardship "The causes [of hardship] include low household income, high energy needs, low awareness of tariff and payment options, inferior housing, and poor-quality heating and insulation. The solutions, like the causes, are to be found both within and beyond the electricity sector."

- b) encouraging the development of sound back-up plans for medical equipment in the event of non-supply;
 - c) creating a DHB-led registry of medical dependent consumers.
- 2.1.3 In the telecommunications sector, Trustpower has been an active participant of the TCF Vulnerable End User Working Party.² We have also been involved with the development of the TCF's Vulnerable End User Code (**VEU Code**). Since the changes to the Act in November 2018, Trustpower has been participating in the 111 Contact Code Working Party which developed the TCF submission.
- 2.1.4 Our experience in both industries means we are well placed to make suggestions around how to ensure appropriate protections for vulnerable end-users within the telecommunication industry can be established.
- 2.1.5 We note that telecommunication services are increasingly viewed as a necessity rather than a luxury. In some instances, certain consumers have specific communication needs related to their health, age and/or living conditions.

3 Trustpower's view

- 3.1.1 Trustpower is supportive of a number of the Commission's preliminary views with regards to their proposed approach to establishing the Code.
- 3.1.2 In particular we consider the Commission's preliminary view to using technology has merit, although our view is that mobile access ought to be the technological starting point once consumer choice has been accounted for.
- 3.1.3 We also agree with the Commission's views that the Code:
- a) should not include larger businesses who tend to receive more customised voice services;
 - b) should not attempt to address situations where consumers make choices which potentially compromise their access to the 111 emergency service. Particularly when these choices are outside the retailer's visibility; and
 - c) should not cover situations where consumers:
 - i. choose to go 'off the grid';
 - ii. have deliberate power outages, such as during a renovation; and
 - iii. are disconnected by their provider due to unpaid charges.
- 3.1.4 However, Trustpower is less certain that the Commission's proposed approach to assess consumer vulnerability solely based on the susceptibility of the access technology to a power failure at the consumer's premise will result in the best outcomes. We suggest the Commission considers the TCF's proposal to introduce a self-identification process.
- 3.1.5 In our view a hybrid between the Commission's suggested approach and the TCF's would likely represent a better approach overall.
- 3.1.6 Above all, we support a pragmatic and practical approach to defining vulnerability and support the Commission's intention in reaching a simple solution.

² The purpose of the Vulnerable End User Working Party (working party) is to develop an industry code of practice for service providers and network operators dealing with consumers who have identified themselves as vulnerable, and to ensure that such consumers would not be unduly placed at risk through the provisioning process or subsequent failure of fixed line telecommunications service.

4 Definition of vulnerability

4.1 Support self-identification of vulnerability

- 4.1.1 Trustpower believes the 111 Code should broadly recognise that some modern fixed-line services such as fibre, and landline phones delivered through a broadband service, will not function in the event of a power outage.
- 4.1.2 Some services, however, will likely continue to function in the event of a power outage. As the Commission outlines, 75% of 111 emergency calls placed in New Zealand originate from a mobile phone. We suspect this percentage is likely to get even bigger as mobile phones and plans get more affordable. Mobile phones, by and large, will work in the event of a power outage as a means of contacting the 111 emergency service. The Code should broadly recognise this as well.
- 4.1.3 We suggest that a simple approach for providers to identify those customers that are vulnerable that could be adopted within the 111 Contact Code could be as follows:
- a) customers on a “naked”³ plan should be excluded as being potentially classified under the Code as vulnerable as they have actively determined that they will not require voice services from their providers⁴;
 - b) those customers that are on “clothed” plans will need to be informed by their retailer that, in the event of a power outage, they will not be able to contact 111 emergency services;
 - c) for customers captured under (b), if they are concerned about being able to contact emergency services in a power outage (i.e. due to age, medical, disability, or safety purposes or as outlined in the definition vulnerable-end user in the Code), and they do not have an alternative means to do this, such as a mobile phone or back-up generator, then the service provider must offer a solution to the end-user (burner phone or battery pack) as intended in the Act.
 - d) if, at any point in time, the consumer’s circumstances (as captured under b) change, the customer should contact their retail service provider to reconsider their vulnerability status.
- 4.1.4 Consequently, rather than outline in the Code which technology is most at risk of not functioning during a power failure, the 111 Code ought to recognise some technologies will work in the event of a power failure and require a RSP to ask consumers (as captured under b) about their contingency plans for communications in place in the event of a power outage.
- 4.1.5 Where no contingency plan is available to these consumers then, as required under the Act, service providers must be required to supply vulnerable consumers with an appropriate means for contacting the 111 emergency service.
- 4.1.6 In Trustpower’s view, this approach would not require the maintenance of an external, comprehensive register of vulnerable consumers. It would be up to the retailers to maintain their own list and undertake a periodic review of these consumers. We broadly agree with the TCF on this matter.
- 4.1.7 In addition, Trustpower is unconvinced that a self-identification approach requires the complex task of identifying in advance specific personal characteristics that might cause a consumer to be a vulnerable end-user.⁵

³ We define a “naked” plan when consumers purchase a stand-alone internet service and a “clothed” plan as when the customer purchases a voice service and an internet service.

⁴ Over the top voice products are not the responsibility of the provider.

⁵ Commerce Commission 111 Contact Code Emerging Views, paragraph 54. Pg. 13

4.1.8 Instead we suggest that the current definition of vulnerable consumer used in the electricity sector⁶ could be loosely adopted within the Code.

4.1.9 For example, a definition of vulnerable consumer to be adopted in the Code could be:

A domestic consumer whom for reasons of age, health or disability, or safety purposes the inability to contact 111 in the event of a power failure presents a clear threat to the health or wellbeing of that domestic consumer.

5 Consumer experience

5.1 The Code should not act as a barrier to switching

5.1.1 Trustpower acknowledges that the Commission's approach seeks to ensure the process is as least cumbersome as possible for both retailers and end-users.

5.1.2 In our view, it is essential that the self-identification of a vulnerable end-user does not unintentionally act as a barrier to switching by adding additional steps and making the switching process even lengthier.

5.1.3 Trustpower strongly believes it would not be desirable to have in the Code any specified definition of what constituted 'proof' of vulnerability nor a requirement for a vulnerable end-user to show detailed proof of their circumstances to a telecommunications provider.

5.1.4 In this regard, we agree with the Commission that assigning specific characteristics of vulnerability within the Code would not be desirable.

5.2 No visibility over mobile coverage area

5.2.1 An additional challenge with the Commission's approach is with regards to mobile coverage. The Commission is of the view that part of the technology test will relate to mobile coverage.

5.2.2 While we encourage the Commission to consider access to a mobile phone, Trustpower is not supportive of mobile coverage being a consideration for two reasons:

- a) currently, there is no central repository that outlines where mobile coverage is available which would make the process of assessing mobile coverage lengthier and potentially add further barriers to switching; in addition,
- b) in certain circumstances mobile coverage might be available in an area but a specific end-user may be unable to get reception due to circumstances outside the RSPs and the end-users' control.

5.2.3 As a result of these challenges, we suggest that the Commission considers making the requirement within the Code that a consumer has access to a mobile phone, not that they also have mobile coverage.

6 Closing remarks

6.1.1 Trustpower strongly supports the TCF's view that that the Code should be forward-looking and apply from the time the Code is approved. Any retrospective application of the Code will be a commercial decision and should not be a requirement in the Code.

⁶ Please refer to the Electricity Authority's *Guidelines on arrangements to assist vulnerable consumers* available from <https://www.ea.govt.nz/dmsdocument/8565-guidelines-on-arrangements-to-assist-vulnerable-consumers>

- 6.1.2 We would also support the Commission in considering the TCF suggestion to organise a workshop with stakeholders before it issues a draft Code for public consultation. We would welcome the inclusion of a consumer representative in this workshop.
- 6.1.3 In light of the work likely soon underway in the electricity sector relating to vulnerable consumers, as well as the recent findings by the Financial Markets Authority and the Reserve Bank⁷, we would support the Commission in continuing to explore whether there is a broader opportunity for joined-up thinking around vulnerable customers across various sectors in New Zealand.
- 6.1.4 For any questions relating to the material in this submission, please contact me on 021 681 206.

Regards,



Claudia Vianello
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⁷ Bank Conduct and Culture - Findings from an FMA and RBNZ review of conduct and culture in New Zealand retail banks
<https://www.fma.govt.nz/assets/Reports/Bank-Conduct-and-Culture-Review.pdf>