

July 2020



Blind Citizens NZ

Association of Blind Citizens of New Zealand

Submission in response to the Draft 111 Contact Code

1. About the Association of Blind Citizens of New Zealand Inc

Founded in 1945, the Association of Blind Citizens of New Zealand Inc (Blind Citizens NZ) is a disabled people's organisation (DPO), with branches and networks across the country. We are New Zealand's leading blindness consumer organisation and one of the country's largest organisations of disabled consumers. Our members are blind, deafblind, low vision and vision-impaired (hereafter referred to as blind).

Blind Citizens NZ exists to give voice to the aspirations and lived experiences of blind, deafblind, low vision and vision-impaired people living in New Zealand. We aim to achieve this by heightening awareness of our rights and to remove the barriers that negate our ability to live in an accessible, equitable and inclusive society.

2. Submission Summary

- 2.1 In the context of our submission to the Commerce Commission, please note that hereafter, the word "blind" encompasses all those who are blind, deafblind, low vision or vision-impaired.
- 2.2 Blind Citizens NZ submission identifies areas the Draft 111 Contact Code should in our view, be strengthened such as meeting the informational needs of blind people, where failure to do so may contribute to breaches of a person's human rights.
- 2.3 In our submission, we refer to "assistive technology". This refers to specialised equipment, and/or software installed on an off-the-shelf computer or device, that gives blind people access to information. This may include screen-reading software that converts text on the screen to synthetic speech, screen magnification software that enlarges the image on the screen, or an electronic braille display that converts content displayed on the screen to braille.
- 2.4 We use the terms "preferred format" and "alternate format" interchangeably. These terms refer to the various means by which blind people access information other than through standard print. Preferred / alternate formats include large print, braille, audio, electronic devices, email, and telephone.



- 2.5** Blind Citizens NZ's well-established position with respect to access to public information is set out in our published brief entitled "Bridging the Information Gap". Excerpts of our brief are included in this submission.
- 2.6** Blind Citizens NZ acknowledges there is no opportunity to speak to our submission. We confirm there is no confidential information in our submission, and that it can be made publicly available.
- 2.7** Should there be a need to elaborate on any feedback provided in our submission, please contact the Chief Executive Rose Wilkinson via either of the following options:
Phone: 021 222 6940
Email: rwilkinson@abcnz.org.nz

3. Blind Citizens NZ's Submission

- 3.1** New Zealand has championed international conventions and played a lead role in the drafting, development and subsequent ratification of the United Nations Convention on the Rights of Persons with Disabilities (the Convention). Blind Citizens NZ along with others, has been heavily involved in the development of Government's New Zealand Disability Strategy 2016 to 2026, and its Disability Action Plan 2019-2023, launched November 2019. Organisationally we play a lead role in the development and adoption of Government's Accessibility Charter (refer Appendix 1). Our submission draws upon these tools to demonstrate blind people's rights to have the same level of independent access to information as the rest of New Zealand's population. Compliance with domestic legislation, Government's Accessibility Charter, and international website standards all contribute towards accessibility of information in a myriad of ways that benefit everyone.
- 3.2** Blindness imposes restrictions on the nature and amount of information gleaned by a blind person when living in a world designed primarily for sighted people. When we refer to information, this is not necessarily restricted to the written word. In our view, information extends across many areas of life where in its various forms, this exists to provide members of the blind community with direction, instruction and knowledge to enable them to function successfully wherever they happen to be.
- 3.3** Thought must be given to the fact that when information is not available to a blind person in their preferred /alternate format, that this may constitute discrimination. Blind people are citizens too – they have the same rights as anyone else to be able to access information, regardless of what this might be.
- 3.4** Experiences shared by people from our community inform our submission. Where possible, we outline what needs to happen to enable blind people to experience the same rights as non-disabled people to privacy, dignity, and confidentiality, and to participate fully in society as independent and equal citizens.

4. Requirement of telecommunications companies to inform home phone customers, and to make information easily accessible to consumers

- 4.1** The Draft Code proposes ways telecommunications companies must inform their home phone customers about technologies that may not work in the event of a power cut at home. The Draft Code identifies actions telecommunications companies must take under such circumstances with respect to making 111 calls, and sundry related informational requirements.
- 4.2** Blind Citizens NZ urges the Commerce Commission to require telecommunications companies to implement a range of options for informing home phone customers about the need for a backup to call 111 in a power cut, when they are using, or plan to use new technologies like fibre and fixed wireless, as these services may not work.
- 4.3** We support that it should be mandatory for providers to inform customers at least once a year of these circumstances. Additionally that they must provide evidence of actual engagement with the customer in their preferred format, as opposed to generic announcements or communications.
- 4.4** It must also be mandatory for providers to ensure that when there is reference to information being “easily accessible to consumers, e.g. on their websites”, that the following “additional” requirements are met:
- there is provision of preferred / alternate formats to meet the informational needs of “vulnerable consumers”;
 - documents are “borne accessible”, and therefore available in a range of preferred formats such as MSD Word, HTML, and structured PDFs;
 - websites are both accessible and useable, and meet Government’s Web Standards.
- 4.5** The Draft Code should in our view, also require telecommunications providers to inform new customers, of the provisions that exist to identify “vulnerable consumers”. Including this requirement will ensure that information of this significance will always be provided in person to the customer. Otherwise, there is a presumption that everyone will always know of these provisions whereas they may not. The same approach should be taken when customers change their telecommunication plans. People’s circumstances can change and it would be responsible for telecommunications providers to build into their processes the importance of imparting information as often wherever possible, to inform consumers about provisions for “vulnerable consumers”
- 4.6** By ensuring all facets of accessibility and usability are met, the Commerce Commission and telecommunications providers will be meeting the diverse needs of blind people and others in society who rely on assistive technologies and devices to independently access information.

Recommendations

1. In addition to feedback in this section numbers 4.1 to 4.5 inclusive, Blind Citizens urges the Commerce Commission to take steps to require telecommunications providers to also meet the requirements of Government's Accessibility Charter and its Web Standards.

5. Process for people (vulnerable consumers) who need further support

5.1 The Draft Code states that home phone customers, who have no other way to contact 111 and who are more likely to need to call 111, can apply to be considered a vulnerable consumer under the code. Vulnerable customers are eligible for extra support at no personal cost to them.

5.2 Blind Citizens NZ supports the inclusive approach taken in the Draft Code, to not state specific eligibility criteria for a consumer to be recognised as "vulnerable". This in our view demonstrates a depth of understanding that vulnerability occurs and can happen for diverse reasons and circumstances.

5.3 Enabling someone to make an application on behalf of a consumer who is vulnerable, is equally supported by Blind Citizens NZ. However, there must be robust provisions and procedures to protect the person for whom vulnerable status is sought (or potentially being removed). As much as the ability for an application to be made on behalf of a consumer is absolutely the right thing to do, in the event a request is made on someone's behalf to be withdrawn as a "vulnerable consumer", the processes must ensure the action is in keeping with the best interests of the consumer, and that they are not in fact being placed at risk as a result of an unwarranted request.

5.4 We do question however, the necessity for a "person of standing" to be asked to make a declaration to certify someone seeking to be registered as a vulnerable consumer is at greater risk of needing to call 111. In our view, this approach encroaches on the person's right to self-identify their status as being at greater risk of needing to call 111, and takes the matter out of their hands. They lose the right to have choice and control over their lives.

5.5 In the event the "person of standing" declines to certify a consumer is vulnerable, they are in our view, potentially breaching the rights of the consumer seeking vulnerable status, and actually placing them at risk. The "person of standing" may be making a judgement decision without knowing or understanding the intricacies and circumstances of the person's life.

5.6 It may be intended that the process to achieve certification of vulnerable consumer status is sufficiently straight forward. However in our view this has unintended barriers and consequences for blind people, and we suggest many others. There is a risk that for some telecommunications providers, that the means of communication will either be a "paper-based" or "on-line" approach.

For many blind people this breaches their human rights. Their independence is stripped away because they must then ask someone else (sighted family, friend, unknown professional / stranger), to complete the form on their behalf. This of course requires the person seeking status as a vulnerable consumer at greater risk of needing to call 111, to disclose personal information.

Recommendations

1. That greater emphasis is given to providing alternate options for registration – we emphasise the need for:
 - an “accessible” on-line form, for blind people with technology and skills to utilise this option;
 - provision of forms in alternate / preferred formats;
 - a phone-based option that enables a blind person to register using this mechanism (we suggest ways to verify the person will be needed but should easily be accommodated in the same way as for example, “telephone dictation” voting for blind people.

2. That consideration is given to a person being able to just “self-identify” their vulnerable consumer status for this Draft 111 Code (refer the next section for more information on this point).

6. Assessment and certification for vulnerable consumer status

- 6.1 The Draft Code makes it clear that a “person of standing” will assess whether a consumer is at greater (particular) risk of requiring the 111 emergency service. It also identifies professionals who can certify on behalf of the customer applying for extra support as a vulnerable consumer under the code.

- 6.2 Although it may be perceived the list of professionals who can carry out this certification is acceptable, Blind Citizens NZ believes this is limiting for blind people, and we suggest, many others in society. The process can pose barriers, not just with respect to the list of professionals, but also for example, getting to and from their home, to obtain the certification.

Recommendations

1. Remove the requirement for anyone seeking to be recognised as a vulnerable consumer at risk of needing to use the 111 emergency service, to have their status certified by a person of standing.

2. If the requirement for certification must remain, the reasons must be made abundantly clear why and ensure these do not breach people’s human rights.

3. Broaden the list of professions and/or designated responsibilities to include for example:
- Disabled People's Organisations such as Blind Citizens NZ;
 - Mid Wives;
 - Local Postie;
 - Citizens Advice Bureau.

7. Provider responsibility to supply a solution to customers who are vulnerable under the Code

- 7.1 The Draft Code makes it clear it is the provider's responsibility to supply a solution to their home phone customers who are vulnerable under the Code, thus enabling them to contact 111 in a power cut at home.
- 7.2 The Draft Code addresses many aspects and pragmatically in our view, when considering solutions, is not specific about what these must be. Blind Citizens NZ applauds the approach taken, in particular recognising that providers must:
- provide solution(s) at no cost to that consumer; and that
 - they must work with their vulnerable consumers to determine the best solution for their needs.
- 7.3 The Draft Code acknowledges that for some customers, a mobile phone could be a good solution. At the same time there is recognition that for some if not many, a mobile phone will not be an option – the reasons will be many, and most significantly will be due to poor coverage (as evident in many rural environments), medical, social and other reasons.
- 7.4 COVID-19 serves to emphasise the barriers that exist when considering the informational needs of blind people. There are too many assumptions made that just because:
- someone is known to have assistive technology and has an email address, that they also use the internet to get information;
 - a household has a landline, or a mobile phone, or both, that someone in need has access to these devices, and can use them independently, with confidence;
 - someone has a phone, that their rural setting supports good access as and when needed.

In fact Blind Citizens NZ knows of people in the blind community who needed to travel a significant distance before they could access wireless/internet, and/or to be able to use their mobile phone because there is no landline in their home.

7.5 There must be a great deal of thought given to the range of solutions there will be for vulnerable customers at greater risk of needing to use the 111 emergency service. For blind people reliant on assistive technologies and using text to speech, mobile phones to meet fundamental needs often start at around \$600. That is because of the software needed to support their informational needs.

8. Providers making regular contact with their vulnerable customers / Provisions for withdrawal of vulnerable status

8.1 The Draft Code requires that providers contact their vulnerable customers once a year. Or, if they move house, they must confirm that the solution provided previously, is suitable and still working. Providers may also ask vulnerable consumers once a year to re-certify that they still require this extra support under the code.

8.2 Blind Citizens NZ believes it is reasonable to expect telecommunication providers to contact their vulnerable customers once a year. However we believe there must be a robust process which requires telecommunications providers to report on their annual contact with vulnerable customers. This would include identifying when they are unable to be contacted, and the extent to which they have exerted effort to contact them.

8.3 The requirement, as indicated early in our submission, should ensure that contact is made with the vulnerable consumer using their preferred format and/or method of contact. There must be some mechanism to ensure the vulnerable consumer has received the information.

8.4 The Draft Code enables a provider, after a period of 12 months or more from the last certification of a consumer's application, to require them to be recertified by a person of standing in the community... Then, if the consumer does not comply with this request, the provider can disregard their "vulnerable" status. Blind Citizens NZ does not support this provision. In our view this opens the opportunity for telecommunications providers to make this an automatic requirement. In turn this would create an unnecessary repetitive onus for vulnerable consumers whose status is permanent, to have to validate their status annually. There is a risk that for some people (as we have explained already), the process becomes too tedious and they would remain at risk because of the additional barriers and challenges they face to remain certified a "vulnerable consumer".

8.5 Circumstances where a consumer may no longer be considered vulnerable are defined in the Draft Code. However there are provisions once again, that enable the telecommunications provider to withdraw a consumer's "vulnerable" status if they have failed to comply with the request for recertification. We emphasise here that unless personal contact is made with the consumer, these requirements presuppose they have received the request in their preferred format. Further that they understand what they must do.

8.6 Blind Citizens NZ acknowledges the Draft Code identifies requirements around which the withdrawal of any service by the telecommunications provider should not happen. This could potentially mitigate concerns we have raised. But in our view, this is very much subject to the telecommunications provider's interpretation of a consumer's potential circumstances and dedication to the realisation of the Draft Code. Blind Citizens NZ cautions that there are elements of risk if "vulnerable status" is withdrawn without evidence of a robust procedure implemented, and evidence that it has been followed.

9. Conclusion

9.1 Access to Information

- a)** A blind person should not be placed in the position of feeling they are reliant on sighted people in order to achieve the outcomes they need to keep safe, such as needing to be certified a vulnerable consumer in greater risk of needing to use the 111 emergency service. If the only options that information is available are by paper or internet, then this is discriminatory towards meeting the informational needs of blind people, who cannot, through no fault of their own, independently access vital information.
- b)** Being reliant on family, whanau, or strangers to read and complete documentation as needed to be recognised as a vulnerable consumer, has the effect of potentially placing an already vulnerable person, at greater risk.
- c)** Under the current provisions, there are blind people, as there will be across the rest of society, who will not have the confidence and/or personal resource to achieve vulnerable consumer status. We make the point that even a strong-minded blind person, who has made their way with the support of family, whanau etc., can also be left feeling exposed and vulnerable.
- d)** We ask providers, and the Commerce Commission to put yourselves in the position of being reliant on someone else having to always read and or complete personal, sensitive information, that you would not want anyone else to know about. We suggest probably not...

9.2 Implementing the United Nations Convention on the Rights of Persons with Disabilities

- a)** The Commerce Commission has a crucial role in ensuring New Zealand's markets are competitive and that consumers are well informed and protected, and sectors with little or no competition are appropriately regulated. It is an independent Crown entity responsible for enforcing laws relating to competition, fair trading, and consumer credit contracts.
- b)** New Zealand ratified the Convention in September 2008, and Blind Citizens NZ takes this opportunity to acknowledge the extent to which the Commerce Commission as a Crown entity, is taking steps towards implementation of the Convention.

- c)** The Commerce Commission has been extremely forthright with industry participants that have not seen fit to recognise the need, and importance to engage with consumer organisations as set out in the Convention.
- d)** Blind Citizens NZ welcomes this approach, and applauds the Commerce Commission for doing all it can to ensure the needs of vulnerable people are recognised and met.

Blind Citizens NZ is aware there is also an opportunity to comment on the Draft Copper Withdrawal Code. While we have not made a submission specifically in response to that opportunity, we ask that all references to availability of information and other relevant considerations, required of the Commerce Commission and telecommunications providers in this submission, are also a requirement of commercial entities, with specific emphasis given to Chorus.

As a closing comment, and reinforcing all other feedback in this submission, we urge the Commerce Commission to ensure that paramount, in all its work, and that of telecommunications providers, is the need for accountability when meeting the needs of vulnerable consumers who are at greater risk of needing 111 for an emergency situation. We urge the Commerce Commission to also do what it can to market all changes.