



**ENABLE NETWORKS LIMITED, NORTHPOWER FIBRE LIMITED,
NORTHPOWER LFC2 LIMITED AND ULTRAFast FIBRE LIMITED**

**SUBMISSION ON THE COMMERCE COMMISSION'S
111 CONTACT CODE**

14 OCTOBER 2019

PUBLIC VERSION

1. **Introduction**

- 1.1 This submission is made by Enable Networks Limited, Northpower Fibre Limited, Northpower LFC2 Limited and Ultrafast Fibre Limited (collectively referred to in this submission as **LFCs**) in response to the Commerce Commission's (**Commission**) Emerging Views Paper (**Paper**) on the 111 Contact Code (**111 Code**).
- 1.2 In Part I of this submission we focus on key issues. In Part II we respond to questions asked by the Commission in the 111 Code.

PART I

2. Education is of paramount importance

- 2.1 As with any significant change in the lives of consumers, educating consumers about choices they have available, choices they have made and the impact of those choices cannot be understated.
- 2.2 In this case, education on the impact of the telecommunications technology in a consumer's home is overdue as some consumers are likely already unaware that, in the event of a power failure, they may not be able to call 111 if they are not on a copper landline. The introduction and implementation of the 111 Code are much needed steps to instigate the urgency on educating consumers.
- 2.3 The LFCs submit that an over-arching education and support programme is required to ensure all consumers are empowered to make technology choices that ensure reasonable access to call 111 emergency services in the event of a power failure, and have the opportunity to engage with their retail service providers (**RSPs**) to ask questions to inform their choices.
- 2.4 The LFCs further submit that the RSPs are best placed to educate their customers about the choices available and the impact of those choices depending on their specific circumstances because of the direct relationship the RSPs have with their customers.

3. Who should be considered a vulnerable consumer?

- 3.1 The LFCs agree and support the Commission's interpretation of the 111 Code's intent - that is, to ensure all "vulnerable consumers" can contact 111 in the event of a power failure. We further agree with the Commission that all consumers are potentially vulnerable by definition if they are unable to contact 111 in the event of an emergency. Section 238(3)(c)(ii) of the Telecommunications Act 2001 (**Act**) requires the Commission to include consumers "who will become vulnerable" in the process it prescribes. Accordingly, we consider the Commission's proposal to adopt a technology-based approach is the appropriate approach for defining a "vulnerable consumer".

4. Who should be defined as the service providers that will be required to supply vulnerable consumers with an appropriate means for contacting the 111 emergency service?

- 4.1 The LFCs agree and support the Commission's preliminary view that RSPs are considered the "provider" under the Act. RSPs are best placed to understand which consumers have a mobile phone or a landline and to offer and inform consumers of alternatives where a mobile may not be the appropriate means. This reflects the current market arrangements, placing the responsibility on the retail provider who has the direct relationship with the consumer to ensure consumers understand any limitations of the services they purchase.

5. No cost to consumers – who should then bear the cost of a backup solution?

- 5.1 The LFCs submit that because the RSP should be the "provider", the RSP should bear the costs of supplying "vulnerable consumers" with an appropriate means for dialling 111. The LFCs are not involved in the RSP's relationship or service offerings to consumers. When considering who bears the cost of a backup solution, the Commission should ensure its approach promotes the lowest overall cost for consumers, while meeting the requirements of the 111 Code. The LFCs therefore submit that RSPs should bear all costs associated to deliver an "appropriate means" to "vulnerable consumers", as it incentivises RSPs to provide efficient solutions. We do not consider that RSPs will have the right incentives, or consumers will be best served, if the cost is not met by the RSPs.

PART II Response to Paper

Question

1 *Do you agree that three aspects we have identified should be considered out of the scope of the Code?*

The LFCs agree with the three aspects identified by the Commission as being outside the intended scope of the Code. The LFCs submit that consumer choice needs to be supported by the retailer in the form of education about the limitations of some technologies (access and home equipment) given the dependency on power and guidance in considering their personal circumstance and environment.

2 *Are there any other areas that should be out of scope?*

No.

3 *Who should be considered a vulnerable consumer?*

As submitted in paragraph 3 of Part I, we agree with the Commission that all consumers are potentially vulnerable of not being able to contact 111 as anyone can potentially become vulnerable in the event of an unexpected risk. We therefore consider the Commission's proposal to adopt a technology-based approach is the appropriate approach for defining a "vulnerable consumer".

4 *What alternative approaches to defining consumer vulnerability should we consider and how would they work?*

We do not have any alternatives to suggest based on our answer to Q3 above.

5 *Do you agree that consumers who have chosen not to take a landline with their service should not be deemed vulnerable?*

The LFCs agree that a consumer who chooses not to take a landline should not be deemed vulnerable, by way of acknowledging they are electing not to have a fixed line voice service.

6 *Should consumers with medical or personal alarms be assessed as vulnerable?*

The LFCs are of the view that consumers with medical or personal alarms will have their needs met by the TCF Vulnerable End Users Code (once approved) and if these consumers then meet the definition of a "vulnerable consumer", then the RSPs must then ensure these consumers have appropriate means to contact the 111-emergency service.

7 *Should consumers with a cordless (walk-about) phone be considered vulnerable?*

The LFCs agree that a consumer who, having been provided with information about technology choices, and the limitations of access and devices that rely on power, still chooses to use a cordless phone is essentially 'opting out' of the 111 Contact Code.

Question

8 *Which telecommunications services should the Code apply to?*

The LFCs agree with the Commission that the 111 Code should apply to all residential consumer voice services that will fail in a power failure and therefore are not capable of connecting to the 111-emergency service.

9 *What are your views on our approach to defining consumer vulnerability based on the susceptibility to a power failure of the technology at their premises?*

The LFCs agree with the Commission's interpretation of the intent of the 111 Code, and therefore agree with defining a consumer's particular vulnerability based on the susceptibility to a power failure of the technology at their premises.

10 *What are the potential practical issues with choosing to assess vulnerability as we have in our proposed approach?*

We have not identified any issues.

11 *Who should we define as the service providers that will be required to supply vulnerable consumers with an appropriate means for contacting the 111 emergency service?*

As set out in paragraph 4 of Part I of this submission, the LFCs agree and support the Commission's preliminary view that RSPs are considered the "provider" under the Act. RSPs have a direct relationship with the consumers and therefore are best placed to determine who does not have a mobile phone or a landline and offer and inform consumers of alternatives where a mobile may not be the appropriate means.

12 *What are the appropriate means for vulnerable consumers, or persons on their behalf, to contact emergency services in the event of a power failure?*

The LFCs agree with the Commission that mobile voice service is likely to provide an appropriate means to contact the 111-emergency service.

13 *Is a mobile phone an appropriate means to contact the 111 emergency service in the event of a power failure?*

Yes, as set out in our answer to Q12 above, the LFCs agree that a mobile phone is an appropriate means to contact the 111-emergency service.

14 *How should consumers demonstrate that they do not have access to mobile phone?*

RSPs, who have the direct relationship with the consumers, are best placed to answer this question.

Question

15 *What happens when a consumer who has been provided with a mobile phone switches provider or technology?*

RSPs, who have the direct relationship with the consumers, are best placed to answer this question.

16 *What additional stages or questions might be required for our flow diagram to meet the purpose of the 111 Code?*

The LFCs submit that education needs to be added to the top of the flow diagram as we believe an over-arching education and support programme is required to ensure all consumers are empowered to make technology choices that ensure reasonable access to emergency services in the event of a power failure.

17 *How appropriate is a battery backup as a method of providing the means to contact the 111 emergency service in the event of a power failure?*

The LFCs submit that the first port of call for a means of contacting the 111-emergency service in the event of a power failure must be a mobile phone. A battery backup is only an option if the vulnerable consumer does not have mobile coverage in their area or for medical reasons, cannot use a mobile phone. Any battery backup would need to be suitable for the relevant powered equipment, which requires identifying the services and equipment at the consumer's premises. This is not an exercise that LFCs are able to do, as we don't have the relationship with the consumer or the requisite visibility of the services they've purchased. Due to the suite of options in the market, there are likely to be different configurations at the consumer's premises, which likely means different types of batteries depending on whether the landline was connected to the consumer's modem or directly to the ONT. RSPs would be best placed to determine what would be suitable for their customer's needs.

18 *What are the practical issues and potential solutions for using battery backups to provide the means to contact the emergency service in the event of a power failure?*

See answer to Q17 above.

19 *What other appropriate means, technologies or solutions for contacting the 111 emergency service in the event of a power failure should we consider (eg medical alarms, satellite phones, pagers), and what are the advantages and disadvantages of these?*

The LFCs have not considered other options at this stage.

20 *How should service providers identify consumers who do not have access to a mobile phone?*

RSPs are best placed to answer this as they have the direct relationship with the consumer and have visibility of what the consumer has purchased.

Question

21 *Should service providers be given the ability to choose what appropriate means they provide to vulnerable consumers providing they are guaranteed to operate for the minimum period?*

The LFCs submit that RSPs should be given the ability to choose what appropriate means they provide to vulnerable consumers provided that the right incentives are in place for RSPs to make a choice that best meets the needs of a particular vulnerable consumer.

22 *Should service providers be required to offer consumers a choice of a range of options if they do not have an appropriate means to contact the 111 emergency service?*

See answer to Q21 above.

23 *Should a central register be created for vulnerable consumers (or potentially vulnerable consumers) which also records who has received an alternative method to contact the 111 emergency service be created?*

The LFCs acknowledge the practical challenges of creating and maintaining a central register for vulnerable consumers, however we would support a register if one was created that demonstrated value to vulnerable consumers - particularly in conjunction with the Energy sector since the primary vulnerability with respect this Code, is the susceptibility to a power failure.

24 *What is an appropriate minimum period that a service must operate for contacting emergency services in the event of a power failure?*

The LFCs agree that a minimum period must be determined in consideration of the vulnerable consumer's particular needs, including an environmental assessment of location and accessibility for 111 emergency services.

25 *Should we base the minimum period on the average network infrastructure resilience in the event of power failure?*

As per Q24 above, the LFCs submit that the minimum period should be determined with consideration to a consumer's particular needs.

26 *Should we base the minimum period on the length of an average power outage?*

As per Q24 above, the LFCs submit that the minimum period should be determined with consideration to a consumer's particular needs.

27 *Should we base the minimum period on the length of power outages during a significant national event such as the Christchurch earthquakes?*

As per Q24 above, the LFCs submit that the minimum period should be determined with consideration to a consumer's particular needs.

Question

28 *What other methods for determining the minimum period should we consider?*

As per Q24 above, the LFCs submit that the minimum period should be determined with consideration to a consumer's particular needs.
