

# Chorus submission on Draft Commission 111 Contact Code and Draft decisions and reasons paper

17 July 2020



## INTRODUCTION

- 1 Thank you for the opportunity to comment on the Draft Commission 111 Contact Code (**draft Code**) and draft decisions and reasons paper (**Draft Reasons Paper**).
- 2 We agree with and support the following decisions by the Commission:
  - (a) that vulnerable consumers who are at particular risk of requiring the 111 emergency service can access those services during a power outage at the earliest opportunity. This is particularly important given many may be currently unaware that their existing retail landline will not work during an outage. The timely implementation of the 111 Contact Code (the **111 Code**) is an important step towards addressing this issue;
  - (b) that retail service providers (**RSPs**) are responsible for providing a means for vulnerable consumers to contact 111 emergency service during a power outage at no cost to the consumer;
  - (c) that a self-identification process (supported by appropriate validation as signalled) is appropriate for identifying vulnerable consumers, as it reduces the burden on the RSPs to make value judgements on who is a vulnerable consumer.
- 3 We also support the more detailed submission of the TCF on operational and technical matters, except as where noted in that submission or our own. Our submission therefore largely addresses areas where there is no agreed industry position, or the matter relates specifically to Chorus.

### *Commencement date*

- 4 It is nearly two years since Parliament passed the Telecommunications (New Regulatory Framework) Amendment Act 2018 (**Amendment Act**) requiring the development of a 111 Code to ensure that vulnerable users were aware of and had the ability to contact 111 emergency services during a power outage.
- 5 Since that time there has been significant migration to new technologies, with over 300,000 end-users migrating from copper services. In this context, we note the importance of the 111 Code being implemented without unnecessary delay.
- 6 Mobile phones are an easily accessible off-the-shelf solution for providers to obtain for the vast majority of vulnerable users. The battery back-up solutions that the TCF is proposing the Commission allow by reducing the reserve battery time are also easily accessed. In addition, the processes that will need to be implemented to support vulnerable users to access these options are straightforward and unlikely to be taken up by vast numbers of users. Given all these factors, while we understand the need for an implementation period, we do not believe that it needs to be lengthy.
- 7 The Commission has also consistently noted its intention for the Copper Withdrawal Code (**CWC**) to be in force in a timely manner and it would be unfortunate if the 111 Code was to further delay this. Therefore, we support the Commission's intention to have the 111 Code in force by 21 September 2020. Separately, if the Commission includes a period for implementation, we ask that this be no longer than six months.

## Scale and implementation of the 111 Contact Code

- 8 In terms of implementation challenges raised by RSPs it is important to consider the scale of users that are likely to require an RSP-supplied solution. Firstly, the consumer would need to be at a particular risk of needing to contact 111 emergency services, and secondly, not already have another means of contacting 111 (e.g. a mobile phone). Given that in 2017 Statistics New Zealand reported that there were 3.8 million mobile phones in New Zealand, roughly equal to the adult population, this suggests the vast majority already have access to an existing means of contacting 111 during a power outage.<sup>1</sup>
- 9 Of those that don't have access to a mobile phone, according to mobile network operators' websites their networks cover up to 98.5% of where New Zealanders live, making a mobile phone an inexpensive and easy solution for the majority of vulnerable consumers – particularly given that calls to 111 emergency services will work on any network, so individual network operator coverage is not relevant. Battery back-up solutions should therefore only be required for a small handful of users.
- 10 In terms of the requirements to communicate with customers about 111 Code obligations, RSPs have an obvious channel through their monthly bills. Including 111 Code information by this means should enable fairly prompt compliance with these requirements. We understand most RSPs are also already asking customers if they are vulnerable as part of their sign-up processes, so modifying these for 111 Code compliance need not be an overly complex process.

### *"Appropriate means" for calling 111 in a power failure*

- 11 The Commission acknowledged in its Emerging Views Paper on the 111 Contact Code (**EVP**) that mobile phones would likely be a solution for most people. However, in the Draft Code Reasons paper the Commission has suggested that mobile phones may not be an appropriate solution for certain vulnerable consumers (i.e. elderly people potentially experiencing technical difficulties).
- 12 We support the Commission's initial position in the EVP. As stated in the TCF Submission, the intention of the 111 Code is to provide an alternative or continuous mechanism to contact 111 emergency services for customers who take a retail landline service (not to provide an improved service). As the TCF noted, in most cases a basic mobile phone will provide the most cost effective and simple solution and requires similar ability as to use a landline handset.
- 13 RSPs should not be required to provide a back-up service that is easier to use than a landline phone (being the ordinary method of calling 111). As this would require the RSP to go beyond providing a "back-up" to providing a higher level of service to manage any vulnerable consumer's limitations in using a handset, beyond the scope intended by the Act.
- 14 Therefore, a battery back-up should only be required if there is a valid reason why a mobile is not an appropriate alternative to customer's landline handset (e.g. lack of

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<sup>1</sup> "New Zealand is going mobile", Statistics New Zealand, [http://archive.stats.govt.nz/browse\\_for\\_stats/industry\\_sectors/information\\_technology\\_and\\_communications/isp-2017-mobile-connections-story.aspx#gsc.tab=0](http://archive.stats.govt.nz/browse_for_stats/industry_sectors/information_technology_and_communications/isp-2017-mobile-connections-story.aspx#gsc.tab=0), 10 October 2017

mobile coverage). Battery back-ups should be considered a last resort not only because of expense, but also because there are greater challenges in terms of safety, installation and maintaining the solution given the unavoidable degradation of battery life over time.

### ***Provision of information to consumers by RSPs***

- 15 The Commission will require RSPs to provide consumers with certain information including explaining services that won't work in a power outage, and that RSPs are required under the 111 Code to provide a solution for vulnerable consumers to contact 111 in a power outage.
- 16 While it is important that consumers have good information about the limits of technology, including that some landlines (i.e. over fibre or fixed wireless) will not work in a power outage, this should be carefully balanced to recognise the inevitable move towards and advantages of new technologies, and not unnecessarily concern individuals about the consequences of moving from their copper services.
- 17 The Commission should regularly review the information being provided to consumers to ensure that consumers are being appropriately informed.

### ***Responsibility for and costs of providing alternative 111 services***

- 18 We support the Commission's position that the obligations in the 111 Code must be met by RSPs, as this is required by section 238 of the Telecommunications Act which imposes the obligation on providing a back-up on the providers of the relevant retail telecommunications services.<sup>2</sup>
- 19 As we set out in our response to the Commission's EVP, it is appropriate given the customer-facing role that RSPs have, that they have the obligation to determine the means of supplying the alternative service and bear the costs of providing it. This incentivises them to act as efficiently as possible in making that decision.
- 20 There has been some suggestion that cost attribution should fall on differing parties based on whether the premises in question has been subject to formal copper withdrawal under the CWC. This is inconsistent with the wording of section 238, which clearly places the obligation to provide an alternative means of contacting 111 specifically on providers. Costs are part of that obligation.
- 21 While the legal position is clear, even if there was room for a different cost allocation it would be impractical to impose costs on other parties based on copper withdrawal, as it would require there to be a standing (but constantly-changing) central list of addresses where copper has been withdrawn using parts of the CWC (as against an independent decision to adopt fibre and stop using a copper landline). Such a process would drive more cost into this process, as well as potentially perverse incentives for RSPs and for consumers looking to switch services. Furthermore, it could result in Chorus meeting costs for customers that we do not even indirectly supply, for example

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<sup>2</sup> The wording of the section does not specifically refer to RSPs as this is not a defined term in the Act, but RSPs are the providers of telecommunications services (and Chorus is specifically prohibited from supplying telecommunications services to end-users under section 690 of the Act).

those in other local fibre company (**LFC**) areas or who migrate to a fixed wireless or HFC product following cessation of their copper service.

- 22 Therefore, for legal, practical and policy reasons there is no basis for separating financial responsibility from the overall obligations on providers to inform and provide a solution to vulnerable end-users.
- 23 The suggestion has also been made by RSPs that the cost should be borne by the underlying network operator/wholesaler to enable the retail landline service RSPs provide to operate during a power outage. It is worth noting that if Chorus (or LFCs) were to bear the costs for battery back-up solutions, there would be no incentive for RSPs to recommend basic mobile phones to meet the purposes of the 111 Code, and we would therefore see unnecessarily high use of battery back-ups with all the practical limitations that involves. This would also result in significantly higher overall costs to the scheme, which would end up being spread across all fibre end-users through the regulatory framework that will apply to fibre access services from 2022.

### **Customer switching**

- 24 RSPs have raised concerns in the TCF submission that vulnerable consumers switching between RSPs or services would provide logistical difficulties in providing and maintaining vulnerable end-user equipment. While this is a matter that RSPs will need to manage, we question whether the 111 Code necessarily needs to address this issue. As discussed above, the number of vulnerable consumers without an existing means of contacting 111 emergency services is likely to be very small.
- 25 In addition, RSPs already manage customer switching where RSP-provided equipment is involved, most commonly modems, as part of their business as usual processes. We do not think that a different piece of (likely cheaper) equipment for a very small number of users should require a Commission-mandated process. However, to the extent this is a concern by RSPs, any impact would again be minimised by provision of a basic mobile phone as the most sensible back-up solution for the majority of end-users, and which would likely have been expensed by the RSP at the point of provision.

### **Technical standards for battery back-up**

- 26 For the very limited situations where a battery back-up is the solution, for safety and protection of Chorus and RSP equipment we would recommend the Commission require a 230V 50Hz AC UPS (universal power supply) with internal battery compliant with appropriate New Zealand electrical standards. While these are slightly larger than a DC unit, they are similarly priced and are also readily available in New Zealand (assuming the supply time is 2 hours). The 230V UPS has the major advantage that it supports all ONTs and RGWs, and it would also support a cordless phone. It has standard 230V 3 pin plug and sockets it is also easy to install.
- 27 If the Commission does not support this proposal, we ask that requirements be put in the 111 Code that battery back-up solutions are compliant with appropriate NZ electrical standards and comply with RGW and ONT power requirements (where relevant) in terms of voltage, power, plug type and configuration. While there are suitable DC power battery backup units available on the New Zealand market to power both ONT and RGW, they require selection of the correct voltage and plug to match

ONT and RGW, be it RSP, Chorus, LFC or unbundler. Therefore, for the reasons set out above we recommend a simpler UPS unit.