Agenda for Commission 111 code Technical Workshop

When: Thursday 5 December 2019 – 9am to 12:30pm

Where: Commerce Commission, 44 The Terrace, Wellington – 9.2 Maia

Purpose of the workshop
This technical workshop is an opportunity to discuss some of the practical challenges we face and how to best navigate these as we draft the Commission 111 contact code (111 code).

We will be testing our ideas and sharing staff views on the key topics for the workshop. We will use the discussions at this workshop to better inform our ongoing decision making and to inform our code development. We therefore encourage attendees to actively participate and involve themselves in discussions.

Any views expressed by our staff will be to stimulate discussion and are not intended to reflect the views of the Commission. Once we have informed and made recommendation to Commissioner, the Commission's position will be reflected in the Commission 111 Contact Code reasons paper which is scheduled to be published alongside the draft code in early 2020.

The workshop will not be recorded or transcribed. Notes will be taken at the workshop and a summary will be published on our website along with all materials presented.

Agenda Items
We intend to circulate a one-pager for each topic ahead of the workshop. Each one-pager will summarize our current view and questions we are seeking an answer to in the workshop session.

1	Welcome and health and Safety • Purpose of the workshop	5 mins
2	Session 1: Consumer outcomes and the 111 code • What are we trying to achieve	20 mins
3	Session 2: Informing consumers • How to best communicate that some technologies won't operate in a power failure	45 mins
	Break	20 mins
4	Session 3: Processes for consumers to identify they are vulnerable • What are the existing processes in the industry	45 mins
5	Session 4: Appropriate alternative means to contact 111 • What guidance and minimum requirements should be in the Code to inform providers decisions around alternative means	45 mins
6	Next steps and close	5 mins

Key issues
- Only vulnerable consumers will be provided with alternative means to contact 111, but all consumers should be informed of power-related issues and the options available to vulnerable consumers
- Currently consumer awareness of modern landline power issues appears to be low
- Vulnerable consumers will only self-identify if they are aware that their landline may be subject to power issues
- How should providers inform new and existing customers?

What must the Code do?
Section 238(3) states that the code must:

> (b) require providers of those services to inform consumers about the options available for vulnerable consumers;

What we heard in submissions
- "…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 – LFC submission (para 2.2)

- "… 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…" – LFC submission (para 2.3).

- "Retailer and consumer engagement should ensure that consumers are made aware at the outset about technology options available and that their service relies on power to function." – Chorus submission (para 7.5).

- "this service {the 111 service} is critical to all citizens of New Zealand who may find themselves in a crisis. While it is a requirement of the Act to define vulnerable, it should not be used in any way to lessen the requirement on all users." – TUANZ submission (p.2).

- "… 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" – Trustpower (para 4.1.3)

- "There may be an obligation for RSPs to explain to customers taking naked services that they should consider other means to access 111 emergency services." – Spark submission (para 60).

- "50% of people 85 years old + do not use digital technology at all" – Grey Power submission (p.1).

- "retrospective application of the Code will be a commercial decision and should not be a requirement of the Code." – TCF submission (p.22).

Workshop questions

Q1	How do providers currently inform customers (or potential customers) about power issues with services?
Q1.1	o Is the information on websites?
Q1.2	o How is the information provided to those who don't have computer/internet access?
Q1.3	o Is the information presented when customers sign up/switch?
Q1.4	o Is the information only provided when prompted?
Q2	Should all customers of services susceptible to power failure be informed upon the introduction of the code?
Q2.1	o What are the challenges in contacting all existing customers on these technologies?
Q2.2	o What are the costs and benefits to all customers of these services being periodically informed?

What must the Code do?

A process for a consumer or person on their behalf to identify themselves as vulnerable is an essential component of the Code to ensure consumers have the ability to react to changing circumstances and have access to 111 emergency services during a power failure.

Section 238(3) states that the code must:

(c) prescribe a process (or processes) for a consumer of those services, or a person on their behalf, to demonstrate that they—

(I) are a vulnerable consumer; or

(II) will become a vulnerable consumer:

In our emerging views paper, we asked for views on

14	How should consumers demonstrate that they do not have access to mobile phone?
20	How should service providers identify consumers who do not have access to a mobile phone?

What we heard in submissions

- Submissions varied on how the process for self-identification/registration might work.

- The TCF's RSP's suggested that RSPs follow their existing BAU process, that is, when a consumer is on-boarding or is migrating to a different service or plan, the RSP would identify whether the person is possibly a vulnerable consumer. In brief, they would use the following process:[1]

  o Record the details of the consumer and the circumstances (both 'particular risk' and access technology) which give rise to the likelihood of being a vulnerable consumer;

  o Advise the consumer whether they require independent verification (e.g. doctor's certificate, information from a health care provider, or a copy of a protection order). Alternatively, the RSP may accept the consumers statement regarding their particular risk without requiring any further evidence; and

  o May require a declaration from the consumer that they have mobile phone access, or that a person on their behalf has a mobile phone.

  o It will be up to the RSP to determine whether the consumer meets the test of being a vulnerable consumer based on the information provided by the consumer. RSPs will need to ensure the process is in their best practice operational docs.

- Spark submitted that it already has an existing process to allow for self-registration to meet the TCF Disconnection Code obligations and set out that the self-certification and validation process can and should be used to confirm relevant consumer information and remind consumers of their obligations.[2] Spark provided a list that the self-certification form could require the consumer to confirm.[3]

- Spark also considered that the RSPs may choose to confirm the information provided is still valid each year.

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[1] TCF, "TCF Submission Commerce Commission 111 Contact Code Emerging Views Paper", 14 October 2019, p11, 13

[2] Spark, "Spark Submission – 111 Contact Code: Emerging Views paper" 10 October 2019, para 18

[3] Spark, "Spark Submission – 111 Contact Code: Emerging Views paper" 10 October 2019, para 21

- Trustpower submitted that it was 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.[4]

- Chorus and the LFC's considered that the process for a consumer to identify themselves is an issue for RSP's rather than wholesale providers.

Our current view

The Code could set out a highly detailed process that outlines the specific steps, information and requirements for all parties.

Alternatively, we could outline a set of principles and/or outline process that needs to be followed but leave providers to determine how best to implement a system that will comply.

To meet the purpose of the code the process should ideally be straightforward and easily accessible to all consumers, or persons on their behalf, and consistently applied across the industry to avoid confusion for consumers.

Workshop questions

Q3	What kind of processes do RSPs currently run that is similar or able to be adapted?
Q3.1	o How do RSPs alert customers of a register and the options available? Do they currently ask questions to assess vulnerability when someone signs up?
Q3.2	o How does a consumer currently apply and what stages do they go through?
Q3.3	o What recourse should a consumer have if they disagree with the decision?
Q3.4	o What type of medical and police criteria do RSPs encounter on certificates, and how much discretion should the provider have to decide if the person is vulnerable?
Q3.5	o How their soft landline options work and whether other RSPs utilise this option?
Q3.6	o Do they regularly contact these consumers to see if their situations have changed?
Q4	How should the process deal with customers who are temporarily vulnerable or who move house or switch providers? Do they go through the process again?
Q4	How do we ensure that the approach is consistent across providers, so that the issue is addressed cohesively by the industry?
Q6	What information do providers currently collect on vulnerable consumers and how do you store and use it?
Q7	How will the process deal with consumers who have a copper landline now, but have it removed through the Copper withdrawal process

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[4] Trustpower, "Trustpower Submission: Commission 111 Contact Code – Emerging Views Paper, 10 October 2019.

What must the Code do?

We must make a code for the purpose of ensuring that vulnerable consumers, or persons on their behalf, have reasonable access to an **appropriate means** to contact the 111 emergency service in the event of a power failure.

The appropriate means must operate for the minimum period in the event of a power failure.

Section 238(4) states that the Code may also do one or more of the following:

      (a) specify **appropriate means** for vulnerable consumers, or persons on their behalf, to contact emergency services:

      (b) contain any other provisions that are necessary or desirable to achieve the purpose of the 111 Code.

How we address appropriate means in the Code has implications for providers when considering options to contact the 111 service, including cost and practicality, and will impact consumers by informing them of options they may be offered or have access to from their provider.

Our initial view

In our Emerging views paper, we outlined that:

1.   the Code could provide flexibility by allowing the service provider to decide what alternatives they offer;

2.   a mobile voice and/or text (SMS) connection could provide an appropriate means to contact the 111 emergency service in the event of a power failure; and

3.   battery back-ups could satisfy the need to provide appropriate means as this would mean a consumer will still be able to make calls over their service during a power failure.

In our emerging views paper, we asked for views on:

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?
13	Is a mobile phone an appropriate means to contact the 111 emergency service 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?
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?
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?
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?
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?

What we heard in submissions

Submissions from industry

- Submissions from Industry (RSPs, LFCs, Chorus etc) generally agreed with our view that a mobile phone or device or battery back-up would constitute appropriate means.

- The TCF submission outlined that its member RSPs' view was that where mobile services are limited, the RSPs support either in-built phone battery back-up or battery back up to the line connection as an appropriate means available to vulnerable consumers. RSPs considered that the battery back-up should be to the line. The choice that the consumer makes about the nature of the phone (cordless or corded) remains with the consumer.[5]

- TCF RSPs also noted that there is a further responsibility on consumers if they are provided with a battery back-up (notifying the RSP when the battery is worn out) and that it may be economic for an IOT device to be developed or identified which allows a 111 voice call but has no other function.

- Chorus and the LFC members support the use of a basic-mobile phone, for vulnerable consumers who are able to use one, as the first-line back-up option. This is likely to be the most efficient, least-cost option suitable for the majority of vulnerable consumers. They also agree with the Commission that a back-up battery is a potential option although there are complexities to ensure the backup is suitable for the relevant powered equipment.[6]

- TUANZ considered that "While mobile phones may be available for consumers, they should not be required to have a working service {be a subscriber}. Our preference is to identify the best way the consumers normal mode of communication {ie landline} can be used in the event of a power failure- and this appears to be some form of battery back-up".[7]

- RSPs and LFCs/Chorus had differing views on how costs associated with supplying the consumer with alternative means should be shared by the industry.

- The TCF and the LFCs agreed that the Code should remain flexible by allowing providers to decide what alternatives they offer, and not restrict potential IOT developments that may come available.

- The TCF submission noted that there should be an opt out option for the consumer if they wish to use an alternative technology to contact 111 in the event of a power failure (ie the consumer chooses to make their own arrangements and is not 'forced' to take a provider's solution.

- Trustpower suggested that the Commission considers making the requirement in the code that a consumer has access to a mobile phone, not that they also have mobile coverage as coverage maps are not centrally held, and consumers experience of actual coverage varies depending on their specific location.

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[5]   TCF, "TCF Submission – Commerce Commission 111 Contact Code Emerging Views Paper (14 October 2019), p. 19

[6]   TCF, "TCF Submission – Commerce Commission 111 Contact Code Emerging Views Paper (14 October 2019), p. 19

[7]   TUANZ "Submission on the Emerging Issues Paper" (14 October 2019), Question 24, p.7.

Other submissions and feedback[8]

- Mobile coverage is a significant concern for rural and remote communities, and several respondents raised that coverage maps are not accurate predictors of real-world usability.

- A few respondents suggested potential alternatives, including pagers, satellite phones or GPS emergency beacons like those used by trampers.

- Many respondents raised the need for the solutions to be fit for purpose for the end-users, including being simple to install and able to be used by less technically savvy people and those who have other difficulties (limited dexterity, sight, hearing etc).

- Grey Power considered that many people older than 85+ do not use digital technology at all and that any solution (and especially a battery backup) would need the provider to supply thorough instructions/assistance as these devices may be confusing to set up and use.

- Grey Power also cautioned that allowing providers to offer what they consider is appropriate could mean that older people may not be well catered for and even if they are offered choices of appropriate alternatives, they may not understand what options are available or how to use them.[9]

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[8] Commerce Commission, "Collated feedback form Commission 111 contact code Emerging views paper", (14-October-2019)

[9] Grey Power NZ Federation "Submission on Commission 111 contact code- Emerging views paper, (14 October 2019, p. 3

Our current view

We remain of the view that the Code will need to provide guidance and clarity around what we consider the provision of an alternative means is practically meant to achieve.

We consider that solutions that would be considered to be appropriate means:

- are intended to operate in the same general location (ie home, premises etc) as the specified telecommunications service currently being provided that will not work in a power failure;

- should cater for any specific circumstances that might affect the consumers' ability to easily use the device. Examples of these might include dexterity issues, vision or hearing difficulties and technical capability;

- must operate for the minimum period;

- should be supported by the provider for the life of the device. An example would be if the solution provided requires installation (such as a UPS) then the responsibility for the installation of the equipment and any replacement of the equipment when it reaches end of life would sit with the provider.

- should be provided with clear instructions and guidance on how to operate the appropriate means they are provided.

Workshop questions

Q8	What are the minimum requirements and additional guidance that providers need to assist them to provide good, fit for purpose solutions to individual consumers without undue cost?
Q8	Should we specify that the means must be fit for purpose for the consumer, and allow or require providers to assess consumers to determine a solution they can easily use?
Q10	How would the resolution of disagreements between consumers and providers over the options provided or presented to the consumer be handled?
Q11	Do any providers see possible supply issues that could prevent them from offering certain alternatives, ie batteries, mobile phones, copper landlines etc?
Q12	How should the return or disposal of an alternative means work when a consumer switches or the alternative means reaches end of life.