

27 November 2020

Vanessa Turner
Commerce Commission
Wellington

By email: vanessa.turner@comcom.govt.nz



Dear Vanessa

Commerce Commission 111 Contact Code

I refer to the Commerce Commission's 111 Contact Code (the Code) which was published on 17 November 2020. The TCF has had an opportunity to consider the requirements of the Code and examine the implications with its implementation. This letter sets out the following issues identified by TCF RSP members:

1. 1 February 2021 deadline for advising consumers of the provisions of the Code, and to design and implement processes for accepting and recording applications from vulnerable consumers;
2. Requirement to complete the applications process within 10 working days;
3. Expected process for handling phone call applications from vulnerable consumers; and
4. Storage of confidential documents.

1. Enforcement date 1 February 2021

The Code (except section G) comes into force on the 1 February 2021. Now that the final Code is published, RSPs are considering the implications on their businesses. RSPs have indicated it will be difficult for them to stand up robust, consumer friendly processes for customers to apply to become a vulnerable consumer by 1 February 2021. The TCF is therefore requesting that the Commission allows RSPs until mid-2021 to comply with the Code (except section G) or provide for another option to alleviate compliance concerns.

There are two key points why an extension is necessary to deliver an application process for consumers. First, the Commission has stated that the industry has almost three months¹ from the published date. We do not consider this to be enough time for RSPs to make suitable system and process changes to implement a robust application process. RSPs have scheduled 'brown out' periods over Christmas and have limited production days, so with this, and public holidays, this timeframe has been reduced to approximately 40 working days till the 1 February deadline.

RSPs also have a tightly scheduled planned change programme over the next 3 – 6 months. Even for those RSPs who have an existing vulnerable consumer registry, a review of internal processes will be required to ensure any inconsistency with the Code requirements are identified, designed and implemented. Therefore, to deliver a robust application process that is ready and prepared for the expected applications and level of communication required by 1 February 2021 over an end-of-year Christmas period is unrealistic.

¹ Cl. 81 Decisions and Reasons Paper

When deciding on what aspect of the Code will be required by the 1 February 2020 date, the Commission may not have been able to fully understand the impact on RSP processes and systems. An opportunity to workshop the implementation aspects of the Code with the Commission would have certainly provided an opportunity to highlight the level of work required to developing and implementing new processes to meet the Code's requirements. The main areas of concern are:

- Establishment of a vulnerable consumer application process, including changing customer management systems to reflect the new processes.
- There are lead times to draft consumer communications and the tight timeframes to implement a process by 1 February 2021. The requirement to advise customers about the provisions in the Code and communicate how to apply for vulnerable customer status implies that an application process has been established before the first communications are sent to customers. This will mean the application process will need to be ready by mid-January.
- Education of frontline staff regarding the Code to deal with the expected queries generated by publicity around the 1 February 2021 compliance date.
- Setting up and training a team to manually review applications and exercise appropriate judgement about qualifying applications.
- Establishing a record system capable of securely storing sensitive customer information to meet the requirements set out in section K.
- Implementing changes to RSP customer complaints processes to recognise the five day turn around for complaints about the Code.

Another consideration is that the provisioning and supply of an appropriate means to consumers must be in place by 1 August 2021. RSPs are concerned about the alignment of the communication, application process and supply of a means to the customer. Adjusting the compliance requirements through to mid-2021 will align the information provided to customers and processing applications, with a reduced gap to potentially providing solutions. A more joined-up approach would be preferable, particularly in the interests of setting reasonable customer expectations and delivering a good customer experience. If the Commission does not consider this to be of concern, there is a risk the outcome will result in a bad customer experience for vulnerable consumers because RSPs will have insufficient time to implement the required changes, handle an influx of applications and supply solutions.

The Commission has indicated that it will be sending a letter to all RSPs towards the end of the year advising them of the requirements of the Code. For many smaller RSPs this may well be their first notice about the Code, and they will have very little time to prepare and meet their obligations.

It is not expected that this extension would inhibit RSPs and other stakeholders, like the TCF and TDR, from providing communication on the implementation and provisions of the Code to consumers generally.

2. Application turnaround in ten working days

The Code sets out provisions for providers to process applications from customers within a relatively short period – 10 working days. There are likely to be many situations where the customer's application is not complete when submitted to the RSP and that further information is required from a third party or pending receipt of information from a third party. For example, a medical certificate may be required which could take some time to be processed through the medical practitioner and could result in the application process falling outside of the required 10-day period.

Clarification is sought that the 'clock can be stopped' in the circumstance the provider is waiting for information from the applicant or an applicant's third party.

3. Phone call applications

The Code states that applications from customers can be provided in any reasonable manner or form (cl.17) and cites an example of this could be by phone call. This example is inconsistent with the language relating to declarations and certification in other parts of the Code because written or documented applications are to be provided.

RSPs are seeking clarification from the Commission on whether it intended phone calls to be a valid form of application. If that were the case, it will significantly increase the complexity of the implementation challenge for RSPs, who will need to consider how phone calls should be recorded or stored for future reference, what the confirmation process would be for the customer, and how third parties such as GPs would be provided for in this process. For example, RSPs will need to decide whether a full audio recording of the conversation needs to be maintained, or whether a customer representative's electronic notes of the conversation would suffice. The former will have significant cost and systems implications for some providers.

The right interpretation is that consumers should be able to make contact via a phone call to discuss the requirements and application process but for compliance purposes documented evidence and application (which could be via an online form) is required.

4. Storage of confidential documents

It is likely that in the process of receiving applications from customers, RSPs will be provided with confidential documents in support of the application, such as medical certificates. The Code requires providers to maintain an accurate record of requirements set out in cl. 39 and retain evidence of the application and communication with the customer for five years. RSPs are seeking clarification from the Commission that this requirement does not include the storing of confidential customer documents, or confidential documents relating to consumers that are given to them by their customers, such as medical certificates.

Clarification is sought from the Commission that the correct interpretation of the Code is that RSPs may sight confidential documents and return them to the customer, but do not need to store them.

5. Other matters

a. Assistance with identifying RSPs

The TCF is willing to assist the Commission to identify all affected RSPs so that the Commission can contact them with information about the Code. We are currently working on compiling a list of all the RSPs known to the TCF through various TCF groups and distribution lists and will provide this information to the Commission as soon as possible.

b. Communication

The Code sets out RSP obligations to communicate to their customers. A wider awareness campaign of the Code would assist consumers generally to understand the Code's complexities for eligibility and types of solutions likely to be provided, as well as providing support to RSPs. Informing consumers of their rights to make complaints and how to do this is another communications aspect that could be supported. The TCF would like to propose that a meeting is coordinated early December between the relevant communication teams from the TCF, TDR, the Commission and consumer stakeholders so that a programme for communications is developed and ability to share material is established.

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c. Appropriate means

There is a requirement in the Code that by 1 August 2020 providers will be able to supply vulnerable consumers with an appropriate means for contacting 111. RSPs have not yet had the opportunity to explore what is required to meet the criteria set out in the Code against what is currently available in the marketplace. It may be that we need to seek guidance from the Commission on this matter in due course.

6. Conclusion

This letter sets out the issues identified within the short time the Code has been available. It is possible that further issues will be identified as the industry works through the implementation process, particularly in terms of identifying battery backup devices that will meet the criteria set out in the Code.

At this stage, we believe that the 1 August 2021 deadline is achievable, but this may change if we find that appropriate devices are not available or there are supply issues which could mean delays in the delivery to vulnerable consumers. In the short term, the RSPs priority is establishing the registration process for vulnerable consumers, and associated communications. The TCF is requesting that RSPs have until mid 2021 to comply with the Code (except section G) or that the Commission provides for another option to alleviate compliance concerns.

We request that the Commission treats this matter with urgency as it will be important for the RSPs to understand their compliance obligations and develop processes and solutions that are enduring and will support good customer outcomes for vulnerable consumers.

Yours sincerely



Geoff Thorn
Chief Executive Officer
New Zealand Telecommunications Forum (TCF)