

2 June 2021

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Wellington

By email: stephen.bass@comcom.govt.nz



Dear Stephen

Follow up letter to Commerce Commission re 111 Contact Code battery back-up device

1. Introduction

- 1.1. The TCF 111 Contact Code Working Party and the Commerce Commission (the Commission) met on 16 June 2021, to discuss the outcomes of the TCF procurement process which sought to identify possible back-up device solutions that will meet the requirements of the 111 Contact Code (the Code). The Commission subsequently requested the TCF provide further information on their process and the issues. These have been answered in the attached Appendix to this letter, the purpose of which is to summarise the outcomes of our investigation and provide additional information following our meeting.
- 1.2. The TCF indicated early, and continued to raise, its concerns to the Commission regarding the proposed solution and minimum period. The TCF, and in parallel individual RSPs, have put a lot of effort into working toward finding a device suitable to meet the Commission's Code requirement. The TCF informed the Commission of a delay to the wholesale supply of battery backup devices suitable for Vulnerable Consumers under the Code and have been very transparent in its findings of its review of the available battery back-up devices.
- 1.3. This delay is caused by the extreme challenge of identifying suitable devices that meet the specifications set by the Commission, and ensuring that the limited device options that are available can be procured in the volume required. Having regard to these factors, it is not appropriate for the Commission to take any enforcement action in relation to breaches of the Code in response to delays that are outside of Retail Service Provider's (RSP) control.

2. Battery back-up Summary

- 2.1. After an exhaustive global search, and significant efforts in partnership with RSPs to identify an appropriate and safe solution within the timelines required by the Code, the TCF identified one device which we expect will meet the Code requirements, and which would be suitable for deployment to Vulnerable Consumers.
- 2.2. We note that devices used in other jurisdictions that have similar regulatory requirements to the Code, but a much shorter backup time requirement, are not suitable for New Zealand because, of the minimum eight-hour period of back-up service that is specified and required by the Commission.
- 2.3. The device identified by the TCF is a power bank. It has only recently been launched by [REDACTED] and is not yet available in New Zealand.

- 2.4. The device cannot be air freighted due to its lithium batteries and will need to be sent by sea. Global supply chain issues and shipping delays, caused by COVID-19, mean that the devices will not arrive in New Zealand by the 1 August 2021, the date Section G of the Code comes into force¹.
- 2.5. TCF members are committed to meeting the Code requirements and have been working for months to achieve compliance, including by considering a wide range of options for delivering the back-up power solution specified by the Commission. This work has been challenged by the limited availability of devices. But rather than offer a substandard, non-compliant battery backup device to Vulnerable Consumers from 1 August 2021, TCF RSP members have indicated that (once contractual discussions are completed), they will place an order for the [REDACTED] power bank device. This will delay the deployment of battery backup devices to Vulnerable Consumers beyond 1 August 2021.
- 2.6. RSPs are unable to commit to an actual date when the devices will be ready for deployment because:
 - 2.6.1. [REDACTED] dispatch date is dependent on successful completion of CE followed by RCM compliance approval testing (expected July 2021);
 - 2.6.2. There is no set date for when the devices will arrive in New Zealand ([REDACTED] current estimate is orders will reach New Zealand mid November 2021); and
 - 2.6.3. Once the devices arrive in New Zealand, they will have to undergo a short period of local testing to ensure they meet New Zealand's technical and safety specifications and are therefore safe to be distributed to Vulnerable Consumers.
- 2.7. RSPs will inform affected Vulnerable Consumers that their battery back-up device deployment will be delayed due to the shipping delays from China and keep them updated on progress.
- 2.8. In terms of affected Vulnerable Consumers the TCF estimates that across the industry there is an indicative number of less than [REDACTED] who will need a battery back-up solution as their appropriate means.
- 2.9. Each RSP is responsible for their own approach to the supply of appropriate means to Vulnerable Consumers. As far as we are aware, the delays described above are only relevant to battery back-up devices. Individual RSPs will advise you themselves if they face any additional compliance issues.

3. TCF RFQ Process Summary

- 3.1. During the consultation process for the Code our members raised concerns to the Commission about the proposed minimum period and the implications this would have for the availability and practicalities of suitable battery back-up devices. The Code defines the minimum period as a continuous eight-hour period which is considerably longer than we expected.
- 3.2. Given our concerns about the lack of suitable devices the TCF ran an RFQ process during March 2021 to identify devices any potential which were capable of meeting the Code Section G requirements. The aim was to identify devices that TCF members could purchase directly from the supplier.
- 3.3. Unfortunately, none of the respondents put forward devices which were suitable for the target consumers, or the devices did not provide power availability for the time period specified by the Commission.

DC Devices

- 3.4. Initially we hoped the DC battery power device from [REDACTED] would be suitable. Their devices replace the supplied power supply of the ONT, modem etc. Unfortunately replacing the manufacturer's supplied power supply invalidates the manufacturer's warranty [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- 3.5. The TCF considered various approaches to mitigate these risks, but the only solution is to go through an expensive and slow testing and approval process in partnership with manufacturers with each combination of equipment the battery power device could be connected to - this would include all

¹ cl.1.1.1 Commerce Commission 111 Contact Code

types of ONT, different types of consumer modems etc. We concluded that this is not a viable approach due to time, cost and the number of devices involved.

UPS Devices

- 3.6. TCF members tested several UPS devices to assess how they operated under real world scenarios. We noted significant differences in performance between their theoretical specification and actual measurements. This was because UPS devices are designed to deliver higher current for a short period of time to allow connected IT devices to power down, whereas the requirement set out in the Code can only be enabled by the lower currents over a longer period.
- 3.7. The most promising devices were from [REDACTED] and were tested under two load scenarios of 13W (typically required to power the ONT and a DECT phone) and 25W (required to power an ONT, RGW and a DECT phone).
- 3.8. Lab results showed that the [REDACTED] could exceed eight hours for the 13W load of an ONT, but not for the 25W load of an ONT, modem and phone. However, at 24kg in weight, 439mm x 220mm x 170mm in size and price approaching [REDACTED] per device, we did not consider it a viable option even for the lower load scenario. Furthermore, the size and weight of this back-up could create other home health and safety risks for Vulnerable Consumers.
- 3.9. As the Commission will appreciate. RSPs are not prepared to procure and deploy a solution to Vulnerable Consumers that is subject to subsequent performance failure to a point where the Commission subsequently considers it does not comply with the Code – with the effect that new procurement and installation is required.

4. Availability of a suitable battery backup device

- 4.1. In the last few weeks, the TCF identified a new device from [REDACTED] called the [REDACTED] which we think will meet the requirements set out in the Code. This is designed to deliver a low power output over a long period, with the typical usage being camping trips etc.
- 4.2. This device has only recently been launched in China and New Zealand will be one of the first places in the world where it would be deployed. While still expensive, its size and weight make it more suitable for deploying to Vulnerable Consumers.
- 4.3. Initial testing by [REDACTED] in China indicates the device will be suitable, but it will need testing by RSPs before deploying to confirm its specifications, and ensure it is safe for use by Vulnerable Consumers. [REDACTED] is currently performing CE followed by RMC compliance approval testing which needs to be completed before the device can be shipped.
- 4.4. RSPs have indicated they can fast track their testing as much as possible and envisage it will take around 3-4 weeks from when the devices arrive in New Zealand before they can be deployed to Vulnerable Consumers.
- 4.5. Firm orders with [REDACTED] will be placed once bilateral contractual negotiations have been completed.

5. Shipping delays will determine device availability

- 5.1. The [REDACTED] device is powered by lithium batteries (NCM variant), which means they cannot be transported by air. We are therefore reliant on international sea shipping for the transport of these devices from mainland China to New Zealand.
- 5.2. Currently, [REDACTED] anticipate 8 to 12 weeks for shipping, but we suspect this may be optimistic given the widely publicised problems facing global shipping. [REDACTED] have already confirmed that RSPs' orders will be sent by land to the port in Hong Kong as the main port in China is currently unavailable. Currently [REDACTED] expect orders will reach New Zealand around mid-November 2021.

6. Number of Vulnerable Consumers Impacted

- 6.1. We estimate that at an industry level around [REDACTED] Vulnerable Consumers will be affected by the delay of a battery back-up solution. This is only an estimate, we have not collated industry numbers. Some RSPs are yet to confirmed their solution for each of their registered Vulnerable

Consumers. The TCF suggests that the Commission contact RSPs directly for exact numbers of impacted consumers if it requires more granular data.

7. Our planned approach

- 7.1. TCF members have indicated they plan to proceed with ordering the [REDACTED] device, which will delay their deployment to Vulnerable Consumers beyond 1 August 2021, until the [REDACTED] devices are available in the country and New Zealand testing is completed. As an industry RSPs will show their commitment to complying with the Code by placing committed orders with [REDACTED] at the earliest reasonable time.

8. Other appropriate means

- 8.1. It is up to individual RSPs to determine how they will comply with their obligations under the Code, including the use of other appropriate means. The issues we raise in this letter relate only to the supply of a suitable battery backup device. We are not aware of similar supply issues for mobile devices for example.

9. Conclusion

- 9.1. At the 16 June 2021 meeting, the Commission made a commitment to consider the information the TCF presented. The Commission subsequently issued a series of questions for the TCF to answer, the answers to these attached as an Appendix to this letter.
- 9.2. The TCF would like to reassure the Commission that the issues with battery back-up will not delay the provisions of other means, such as mobile devices.
- 9.3. While RSPs can seek to achieve compliance outside the TCF procurement process, the practical issues raised in this letter would also apply to any individual procurement effort by RSPs.
- 9.4. The TCF requests the Commission to use its discretion to not take enforcement action against RSPs in relation to breaches of the Code which are outside of their control, we request a similar approach to the Commission's earlier decision relating to the provision of information to consumers and the process for applying to be a vulnerable consumer².
- 9.5. The TCF looks forward to the Commission's response and is available to answer any questions relating to the information presented in this letter or previous communications.

Yours sincerely



Clare Dobson
TCF Programme Manager
New Zealand Telecommunications Forum (TCF)

² Commerce Commission Letter to TCF, 10 December 2020

APPENDIX

Below are the TCF responses to the Commission's questions received via email 2 July 2021:

The TCF process

Given that the code was signaled to industry in Sept 2019, with the final code being published in Nov 2020, we would like the TCF to explain:

1.1 its implementation plan, and whether (and if so, how) RSPs have worked on this in parallel with the TCF:

Response:

- It is not the responsibility of the TCF to implement the 111 Contact Code, that is the responsibility of individual RSPs;
- The TCF commenced with the procurement process to identify suitable solutions to meet the Commerce Commission's Code requirements once the Code was published, because:
 - o There was uncertainty regarding the 'minimum period'. The first proposal to define 'minimum period' by the Commission was in the draft Code published 11 March 2020, where the Commission recommended a continuous 12-hour period (pg. 6)
 - o The TCF submitted that the proposed 12-hour period was excessive, setting out very clear reasons why it did not support the Commission's proposal in cl. 3.11 – 3.13 and stating (cl. 3.13):
*"The TCF was not able to identify a solution at reasonable cost currently in market that would meet the 12-hour minimum period"*³.
 - o In May 2020, the Commission published 'Commission 111 Contact Code Technical Workshop 'Summary of views expressed', the Commission stated with regards to 'minimum period', that it planned to complete an analysis of electricity outages and would present a view on the minimum period when the draft Code was published (cl. 97).
 - o The Commission's final decision to define 'minimum period' as a continuous 8-hour period was based on a number of points relating to their electricity analysis and named one solution available in New Zealand⁴. The TCF argues that to have designed a Code based on such restrictive requirements and narrowing the specifications down to a possible one single solution available for RSPs was always going to be challenging.
- Furthermore:
 - o The TCF completed an analysis of overseas jurisdictions and requirements for battery back up in May 2020.
 - o Chorus provided a summary on their UPS battery back-up testing in July 2020.
 - o Spark shared their experience with providing battery back-up devices with their Fixed Wireless Modems.
 - o All procurement issues encountered by the TCF in connection with battery back-up are issues that would have been encountered equally by any RSP seeking to procure independently

All of this information was shared to TCF Members and used in TCF submissions to actively inform the Commission on progress along every stage of our progress with the aim of providing guidance on a suitable solution that could be procured and deployed by RSPs.

1.2 the reason(s) the RFP consultation was published in March 2021 and not earlier;

Response:

- The Commission will be aware of the period of time needed to establish a scope of works and commence with a project.
- The TCF and its members sought to formally commence the RFP process once the industry had certainty and the Code was published (i.e., November 2020). This was not the first time the TCF was engaged on these issues, but as described above, the TCF has been submitting and working with its members to help ensure appropriate Code requirements were defined and meet.

³ TCF Submission on the Commerce Commission Draft Code 17 07 2020

⁴ Commerce Commission Final Decisions and Reasons Paper cl. 183

- TCF members raised their concern with finding suitable solutions to meet the Code requirements. The TCF started its process to develop a draft specification for devices (mobile and battery back-up), the first draft was circulated prior to Christmas.
- In February an RFQ panel was established to finalise the RFQ which was approved and issued on 2 March 2021.
- The TCF considers that to work through this process at the end of 2020 over a Christmas period, to consult with members and produce a final document by 2 March 2021, was an appropriate period of time. This timing included a legal review of the RFQ to ensure it did not cause any Commerce Act issues for industry or participants.
- It is also worth noting that RSPs were also developing their Vulnerable Consumer registration process as required by the Code during this period, as well as managing Christmas shutdown and resourcing during the summer period.

1.3 *what it sees as the major roadblocks to deploying a solution (i.e., critical path roadblocks);*

- The main elements of deploying a solution are:
Response:
 - o Awaiting final version of the Code;
 - o Identifying a device which meets the requirements;
 - o Testing to ensure devices meet New Zealand standards;
 - o Setting up arrangements with suppliers (price, terms etc.);
 - o Logistics (including stock delivery and holding, aspects relating to the delivery of devices to consumers)
 - o Customer installation and setup (home installation process for vulnerable consumers, home setup so RSP can manage ongoing support etc.)
 - o assure process (dealing with faults, educating our front line, including service technicians, on the devices, ensuring we have the right documentation for customers etc.).
- There is a risk that the device does not pass its compliance testing in the labs at ██████████, but we will be placing orders ahead of this being confirmed to ensure delivery into New Zealand as soon as possible. We perceive the risk of it failing its compliance testing (CE and RMC testing) to be small.
- Problems with batteries are not hypothetical. Spark has previous experience with battery backup units, ██████████. Spark identified that some of the power back-up devices that it had provided with its fixed wireless broadband service had incorrectly placed wiring due to a manufacturing error. This created a risk of overheating which could lead to a potential fire risk and resulted in an equipment recall⁵.
- There are also deployment risks around the in-home installation of a battery backup solution which RSPs will only encounter when they visit the customer. For example, the ONT may be located in a position where it is not safe or practical to add a battery backup device, or where multiple devices need protecting, but they are not located close together.

1.4 *if RSPs have worked on finding a solution in parallel with the TCF process and whether any have identified a battery back-up solution suited to some or all of their service deployment options.*

Response:

- Yes, RSPs worked in parallel to the TCF process.
- Some RSPs provided their supplier contacts to the TCF, whilst also carrying out their own investigations. The Commission will need to engage bilaterally with RSPs on their investigations.
- It is not clear what the Commission means “*whether any have identified a battery back-up solution suited to some or all of their service deployment options.*” The TCF and individual RSP procurement processes have been focused on the requirements set out in the Code. Although RSP investigations identified UPS devices that, while operationally suitable, didn’t meet the Code requirements (i.e., minimum back-up period of 8hrs).

⁵ https://www.sparknz.co.nz/news/Spark_recall_power_backup_packs/

- While there maybe multiple different types of consumer set-ups and technology options, the very small number of Vulnerable Consumers means it makes more sense to look for a common solution that can be used in a wider range of scenarios.

Scale and costs

In order to help us to understand the scale of the battery back-up issue raised by the TCF, can the TCF please outline:

2.1 the number of vulnerable consumers identified to date (and if possible, those identified as requiring a battery back-up solution);

Response:

- The TCF indicated an estimated number in the attached letter cl. 2.8, beyond this the Commission will need to engage bilaterally with RSPs on their customer numbers.

2.2 the perceived general risk exposure to RSPs, and to LFCs, of installing any equipment (e.g., modem, RGW, ONT) at an end-user’s premises?

o Please include an outline:

- of how RSPs and LFCs manage and mitigate those risks;
 - For example, our understanding is that retailers’ general terms documentation typically limits their liability to approx. \$5k per incident maximum \$10k in any 12-month period.
- the nature of the typical warranty given to RSP and LFCs by their equipment vendors; and
- the consequences for RSPs and LFCs of such warranties being invalidated?

Response:

- The TCF is not able to comment on the warranty arrangements RSPs and LFCs have in place with their suppliers, nor how each individual company mitigates risk, beyond those noted in letter. These arrangements are commercially sensitive to each RSP and LFC. The Commission may be able to gain further information by engaging with our members directly.

Potential solutions

We understand that the TCF has identified two potential battery back-up solutions, manufactured by [REDACTED]. The TCF outlined there are timeframe issues for [REDACTED] solution, and safety and liability issues with the [REDACTED] solution. Please answer the questions on potential solutions below.

Response:

- There are 3 possible identified technical solutions, regardless of supplier:

DC-DC solution:	Essentially a constantly charged battery supplying 12v DC to the equipment, such as, but not limited to [REDACTED] solution
Battery:	Lithium-ION [REDACTED] - base unit and expansion battery unit)
Advantages:	Small, cost effective, could be NZ Made [REDACTED] e.g.) Preferred technical solution
Disadvantages:	Will only power two 12v devices (ONT & RGW are 12v, not Dect phones typically 7.5v and 9v, or other non 12v medical alarms etc. Requires replacing OEM certified power supply with this device, breaking both warranty & more importantly OEM Liability * Requires bespoke power lead between DC battery device and other devices The [REDACTED] website ⁶ specifies the device will only last for ‘up to 6 hours’ and requires a battery expansion unit for longer operation and/or for powering additional devices (e.g., for ISP with RGW’s or powering additional devices like phone or medic alarm (if possible)) Simplistic battery management / charge indicator user interface Recommended – managed install

⁶ [https://www.\[REDACTED\]](https://www.[REDACTED])

<u>230V UPS solution:</u>	Essentially a constantly charged battery and a 230v inverter supplying standard 230v AC to the equipment using equipment's own OEM power supply. Designed to supply large power draw for a short time – to power equipment for a short time or allow equipment to gracefully shutdown after power cut.
Battery:	Mostly sealed lead acid
Advantages:	Standard 230V power output, thus the supplied OEM power supplies can be used Can power any device irrespective of voltage as OEM power supply used, same as plugging in to wall socket
Disadvantages:	Not designed to provide low power for long periods of time To achieve this a large capacity, thus physically large & heavy and relatively expensive unit is required to just reach 8 hours Recommended – managed install
<u>230v Power Bank</u>	Essentially a constantly charged battery and a 230v inverter supplying standard 230v AC to the equipment using equipment's own OEM power supply – same as a UPS Designed to supply low power draw for a long time – much longer than the 8hrs required
Battery:	LI-ION
Advantages:	Standard 230V power output, thus the supplied OEM power supplies can be used Can power any device irrespective of voltage as OEM power supply used, same as plugging in to wall socket Small, light weight Recommended – self install (although some RSPs may still choose to do a managed install)
Disadvantages:	only two 230v sockets

Consideration by supplier:

██████ solution

We understand that ██████ have a new product, called ██████, that technically meets the requirements of the code. We would like the TCF to explain:

3.1 the current status of acceptance testing;

Response:

- At the request of New Zealand RSPs, the devices have been tested in ██████ Research and Development department to the load requirements for both ONT only, ONT plus RGW, and ONT plus RGW plus Phone. The devices will be ordered at risk, subject to an acceptance testing and approval by the RSP once the devices have landed in New Zealand.
- The device is currently being CE and RMC compliance tested by ██████ with these expected to be completed mid-July.

3.2 the risks RSPs have considered in relation to this solution;

Response:

- There is a risk that the CE/RMC certification or New Zealand acceptance testing identifies an unforeseen issue.

3.3 the risk minimisation strategies that RSPs and LFCs consider are available to them to manage, mitigate or eliminate such risks; and

Response:

- [REDACTED] has been working with [REDACTED] Research and Development to understand and work through any concerns and perform testing at [REDACTED]. [REDACTED] is also in direct discussion with [REDACTED]

3.4 whether any RSPs have progressed orders/testing since our meeting with the TCF?

Response:

- [REDACTED]. These conversations are in commercially confidence and have not been shared with the TCF. We recommend the Commission talks directly to [REDACTED] separately on this question.
- We understand [REDACTED] are looking to complete their CE/RMC testing by mid-July. This needs to be completed before they will ship the devices.
- At the time of writing [REDACTED] estimate that orders of devices are likely to reach New Zealand around mid-November 2021.

We understand that [REDACTED] has a solution that technically meets the requirements of the code but that the TCF has identified safety and liability issues. At our meeting with [REDACTED], they outlined:

- their product is certified and complies with the required NZ standards, and the safety risk is negligible; and

Response:

- Correct, no safety risk has been identified technically.
- they would be happy to discuss options to underwrite the risk relating to the RSP equipment warranties and offer suitable equipment to RSPs.

Response:

- Correct, [REDACTED] have a robust warranty on their product

Further comment:

- Replacing the certified OEM power supply for the ONT, Cable Modem, RGW, modem breaks the equipment certification, the warranty and the liability on that equipment.
- Certification of the power supply is both that the power supply is electrically certified for NZ and manufacturer tested so that when used with the provided equipment, the provided equipment will operate correctly and meets its own certification. The Equipment certification is only valid when the correct OEM power supply is used.

Equipment Safety	AS/NZS 60950.1:2015	Information technology equipment – Safety - General requirements (IEC 60950-1, Ed. 2.2 (2013), MOD)
Equipment EMC	EN 55032:2015	Electromagnetic Compatibility of Multimedia Equipment - Emission Requirements (Cispr 32:2015)
PSU safety	AS/NZS 60950.1:2011	Information technology equipment - Safety - General requirements (IEC 60950-1, Ed. 2.0 (2005), MOD)
PSU EMC	EN55022:2006+A1:2007	Information Technology Equipment- Radio Disturbance Characteristics- Limits and Methods of Measurement
PSU efficiency	AS/NZS 4665.2:2005	Performance of external power supplies, Part 2: Minimum energy performance standards (MEPS) requirements

- Warranty: if there is an equipment failure it is no longer covered under manufacturer’s warranty as the correct power supply is no longer being used, but this is not the key concern.
- Liability: If the modem caught fire (and burnt an apartment block to the ground), because the RSP replaced the certified power supply with a non-certified one, the liability is wholly on the RSP.
- [REDACTED] were contacted on 21 April 2021 about the liability issue by the TCF CEO. They agreed that it was an issue that they had already contemplated, but were unable to propose a work around.

We request the TCF, in relation to the [REDACTED] solution, explain:

3.5 what risks have the TCF identified, for end-users; RSPs; and LFCs, in relation to the [REDACTED] solution?

Response:

- See above – liability issue.

3.6 how have the TCF quantified the likelihood and impact of these risks (including the risk exposure to RSPs of warranties being invalidated)?

Response:

- The risk is low, but the impact could be significant.

3.7 what other mitigations did the TCF consider to reduce these risks to themselves and to end-users?

Response:

- Different RSP legal teams and [REDACTED] have tried to find a solution to the liability issue with not real or viable solution presented to date.
- TCF members engaged a sample of the different equipment vendors about certifying the [REDACTED] power supply with their equipment, due to the large number of equipment suppliers, the time to ship back [REDACTED] supplies to the manufacture's equipment labs, and in some cases the unwillingness to certify, as the manufacturers would themselves have to re-certify the equipment against NZ safety & EMC, this option was not considered a viable solution.
- There would also be the added complexity of needing to test against new devices present in the customer's home over time.

3.8 why does the TCF consider that there are no acceptable mitigations for the warranty issue?

The TCF notes that the issue does not relate to the warranty of the product, but associated liability if the warranty is void.

3.8.1 Our understanding is that [REDACTED] is open to discussion to underwrite this risk but has not been contacted by the TCF in relation to this.

Response:

- The TCF notes that on the 21 April 2021 the TCF CEO had several discussions with [REDACTED], first to explain the liability issue with a DC device / power supply and that RSPs and LFCs have not been able to overcome this after seeking their own legal advice. [REDACTED] noted that they were aware of the issue and suggested they go away and discuss internally to consider a solution. They later informed the TCF CEO that they were not able to propose a realistic solution and that for [REDACTED] to take on the liability was not likely. No further proposition has been tabled with the TCF.

Other solutions

3.9 We would like to understand what other solutions have the TCF considered that would require less battery back-up power (e.g., an ATA solution); and

3.9.1 please provide the reasons the TCF consider that these were not feasible?

Response:

- Some RSPs do not have a ONT ATA voice solution place and, no operational arrangement with Chorus or an LFC to have one and no process to provision or manage it once deployed, it is not part of their business model.
- To establish operational configurations, build and test back-end telephony & IT interfaces, provisioning channels, create new products in the provisioning / billing engines, care and support procedures etc. would take more time and money than what is deemed feasible or sensible for a small group of consumers.
- Since the Code was considered, before and in parallel to the TCF involvement, several RSPs have been investigating all types of battery backup options, and testing both the DC and UPS options. It has also sought clarifications on requirements from the Commission, such as minimum period and on demand vs constant⁷.

⁷ TCF followed up on behalf of Vodafone email response received 23 February 2021 from Regulation Branch

- The DC solution proved effective, and was the principal choice at a technical level, but no RSP or the vendor has found an answer to the liability issue
- Finally, the TCF indicated early, and continued to raise, its concerns to the Commission regarding the proposed solution and minimum period. The TCF and in parallel, individual RSPs have put a lot of effort into working toward finding a device suitable to meet the Commission's 111 Code requirement. The industry is requesting that the Commission consider the current state of play for RSPs and be pragmatic and supportive to RSPs by not enforcing the compliance obligations and recognise that the industry is working over and above best efforts at meeting their obligations and supporting their vulnerable consumers.