



TCF Submission to
Commerce Commission New Zealand
111 Contact Code Review
16 June 2023

A. Introduction

1. Thank you for the opportunity to comment on the 111 Contact Code (the Code) as set out in the Commerce Commission’s (Commission) Request for Views paper (the Paper) on the effectiveness of the Code in meeting the requirements under part 7 of the Telecommunications Act 2001 (Act).
2. This submission is provided by the New Zealand Telecommunications Forum (TCF) and represents views from TCF members on the operational aspects of the Code; it does not respond directly to the specific questions set out in the Paper.
3. The TCF considers that the current scope of the Code meets the requirements defined in the Act by addressing a specific need. However, we acknowledge that vulnerable consumers can at times require broader support from their provider. To address this, the TCF is developing an industry code that will set minimum standards around the provision and management of vulnerable consumers’ fixed line telecommunications services.

B. Scope

4. The TCF agrees that the scope of the Code meets the requirements described in the Act, *‘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.’*¹

¹ Act clause 238

5. For transparency, it would be useful for the Commission to clarify in the Code that consumers wanting to access the scheme for their individual resilience during an emergency and who are not at particular risk of needing to call 111 emergency services for health, safety, or disability reasons, is not the intention of the Act or the Code. The TCF recommends that this scenario is clearly described as out of scope.
6. There are other options in the marketplace for consumers who are ineligible for the scheme but have a desire to increase their own resiliency during an emergency or that of their friends and family. For example, purchasing battery backup devices from a third-party, mobile devices, satellite phones or the use of a generator at their premises.
7. Furthermore, the Code should clarify that Retail Service Providers (RSPs) are only obligated to provide a solution that meets the requirements of the Code. If the vulnerable consumer does not accept the device due to their own preference, but the device would otherwise have been suitable for them, then they are essentially opting out of the scheme and the RSP has met its compliance obligations.

C. Battery Life

8. Requiring the battery life for a battery backup device to meet the minimum period of eight hours means the battery backup device is big and expensive. The TCF extensively investigated options on behalf of the industry when the Code was introduced and found no device at that time which could meet the eight-hour requirement. The industry had to seek a solution from an overseas supplier which subsequently had supply chain issues and pulled the model from the market. This left RSPs with even less choice in the market place and potentially impacted their ability to provide a suitable device to their vulnerable consumers. We communicated this concern to the Commission on several occasions during the development of the Code and the subsequent process of procuring devices that met the Commission's specifications.
9. Subsequently, solutions have been found but there remains a very limited market for RSPs procuring devices to meet the Commission's requirements.
10. Reducing the battery backup requirement to four hours would likely increase the pool of suppliers that RSPs could procure battery devices, including physically smaller and lighter batteries which would be more suitable for installing in a vulnerable consumer's home.

D. Medical Alarms

11. The TCF would encourage the Commission to consider the role of monitored medical alarms and recognise that these services provide a valuable and often preferable solution to many vulnerable consumers who need support during an emergency. We consider that a consumer who has an existing monitored medical alarm, which allows them to get

assistance during a power outage, is already adequately protected and that additional support for their landline service is unnecessary².

12. Many vulnerable consumers who use this type of service are eligible under the Ministry of Social Development (MSD) to access equipment through approved MSD suppliers. Our members have anecdotally estimated that around half of their registered vulnerable consumers have a medical alarm of some sort.
13. The TCF recommends that the Code is amended to specify that if a consumer has an existing monitored medical alarm, they already have an 'alternative means' and therefore are not eligible for additional support under the Code, in the same way that consumers who have an existing battery back-up device or a mobile phone are already out of scope. The Act allows the Commission to specify appropriate means under cl. 238(4)(b) which they could do by clarifying in the Code that:
 - a. Consumers with an existing monitored medical alarm that works during a power outage for the minimum set period (i.e., continuous eight hours under the current Code) and enables them to contact 111 emergency services or other emergency support related to their vulnerability, would be considered to already have an 'alternative means' and would not be eligible for a device under the Code.
 - b. If an existing vulnerable consumer installs a monitored medical alarm (whether privately purchased or via MSD funding) that enables them to get urgent support during a power outage, they would not be considered a vulnerable consumer for the purposes of the Code.
14. RSPs should not be required to provide medical alarms to vulnerable consumers because there is already a well-established competitive market for monitored medical alarms supported through government funding. RSPs should therefore not be required to provide medical alarms to vulnerable consumers. The TCF recommends that the Commission engages with MSD-approved medical alarm suppliers to understand what options are available to consumers, the code that governs this service, and how the telecommunications industry can help increase awareness of government-funded options through their existing customer relationships.

E. Long-term viability of the vulnerable consumer scheme

15. Copper and PSTN switch-off means consumers are transitioning off copper on to alternative technologies, such as fibre and fixed wireless³. Consequently, more consumers overall will potentially qualify for additional support under the Code.
16. Mobile devices are suitable for most vulnerable consumers. In areas where there is no mobile signal or in the circumstances where a vulnerable consumer cannot use a mobile

² Specifications for Telecommunications Based Personal Emergency Response Systems (PERS), page 15 clause 3.2.4

³ Commerce Commission - 2022 Telecommunications Annual Monitoring Report, page 143, PTSN section

phone for dexterity or other issues, a battery backup device is installed. The cost to deliver these solutions are not insignificant, especially when the battery back-up must last for a minimum of eight continuous hours.

17. The TCF recognises that providing landline services to consumers remains an important service, but we are concerned about the possible inequity that could result in the sector between RSPs who continue to provide landline services and those who don't. Consideration needs to be given to a longer-term viable funding model, possible through existing arrangements established by MSD for monitored medical alarms, to ensure vulnerable consumers continue to be supported.

F. Compliance Costs

18. Any changes to the Code that would result in increased requirements on industry or broadening of scope of the scheme could have a financial and operational impact for RSPs, particularly if there are changes to the specifications of the battery backup such as an increase in the eight-hour minimum period. There are a range of costs incurred by RSPs in meeting the obligations and implementation of the Code; for example, setting up a vulnerable consumer registration process, training and rolling out information to frontline services, designing application forms, updating websites, etc. This is in addition to the cost associated with the provision of the appropriate means to those consumers.
19. The TCF is highlighting this to the Commission so that if there are proposals to make any such changes to the Code, robust consultation with RSPs is carried out first.

G. Requirement to disclose information


20. The Commission may want to take this opportunity to review the disclosure and reporting requirements to ensure they continue to deliver meaningful data and do not place an unnecessary burden on RSPs. The TCF would be happy to work with the Commission in reviewing the annual reporting requirements.

H. Vulnerable Consumer Application Forms

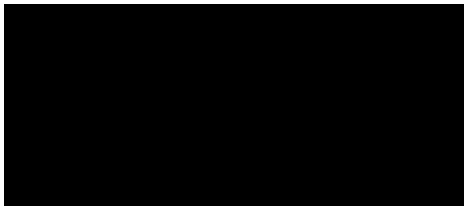
21. The TCF recommends reviewing the vulnerable consumer application form that is set out in the Code. Our members have provided the following feedback as part of this process, any proposed changes should be tested with consumers:
 - a. Feedback from consumers is that the form is very long and wordy; one suggestion is to simplify the form with clear reference to the sections in guidance notes to declutter the main form.
 - b. The area of the form which relates to the nominated person causes confusion and is often filled incorrectly, requiring RSPs to go back to the customer to update the form.

- c. The form should clarify that an existing medical alarm that allows the customer to contact 111 means the consumer is not eligible for additional support under this Code. Refer to our recommendations in section D above.
- 22. A letter from a health practitioner is listed in the Code as evidence of a consumer’s vulnerability. Some members have experienced cases where the health practitioner shares the consumer’s full medical history, leaving the RSP’s staff having to work out whether the consumer should qualify for the alternative means to be provided to them. It would be helpful for the Code to clarify that a health practitioner’s letter needs to explicitly state that the consumer relies on their landline service for contacting 111 emergency services and therefore qualifies for additional support under the Code. It would also be helpful for the Code to include a list of indicative medical conditions that would qualify as vulnerabilities for the purposes of this Code. Additional clarity would help make the application process for vulnerable consumers smoother and potentially quicker, while also relieving some of the pressure on our members’ staff when assessing applications. We propose that the Commission engages with industry and other relevant parties on what additional clarity could be provided to the application form in the Code

I. Conclusion

- 23. The TCF is available to answer any questions the Commission has regarding the points and views set out in this submission.
- 24. Any questions relating to this submission should be directed to Penny Sutcliffe:


Yours sincerely



Paul Brislen
Chief Executive Officer
New Zealand Telecommunications Forum (TCF)

The TCF is the telecommunications sector's industry body which plays a vital role in bringing together the telecommunications industry and key stakeholders to resolve regulatory, technical and policy issues for the benefit of the sector and consumers. TCF member companies represent over 95 percent of telecommunications consumers in New Zealand, by connection numbers.

TCF Members include: 2degrees, AWACS, Chorus, Devoli, Enable Networks, Fortysouth, Kordia, Mercury, Northpower Fibre, NOW, One NZ, Spark, Symbio Networks, Tuatahi First Fibre, UnisonFibre and Vector Communications. WISPA-NZ, which represents 28 Wireless Internet Service Providers, is an Associate Member of TCF.

For more information visit: <http://www.tcf.org.nz>