

## **111 Contact Code Review**

Under Part 7 of the Telecommunications Act 2001

**Request for views on the effectiveness of the 111 Contact Code in meeting the requirements in the Act**

Date: 18 May 2023



## Glossary

Term	
<b>Act</b>	Telecommunications Act 2001
<b>Commission</b>	Commerce Commission
<b>LFC</b>	Local Fibre Company
<b>Provider</b>	A telecommunications service provider. Under the Code this specifically means a provider of retail landline services.
<b>RSP</b>	Retail Service Provider
<b>TCF</b>	Telecommunications Forum Inc.

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## Introduction

### Purpose

1. We are seeking feedback on the effectiveness of the 111 Contact Code (**Code**<sup>1</sup>) in meeting the requirements of the Telecommunications Act 2001 (**The Act**<sup>2</sup>).
2. This document sets out the process for our review of the Code and outlines a series of questions that we would like stakeholders to consider when providing feedback.
3. We are requesting views from a range of parties during this public consultation. We are seeking feedback from interested persons listed under the Act<sup>3</sup>, Retail Service Providers (**RSPs**) with obligations under the Code, telecommunications industry groups and consumer advocacy groups. Where possible, the views of vulnerable users will be sought also.

### Background

4. Retail landline services are moving away from traditional copper to modern technologies, such as fibre. A key difference to previous telephony services delivered using copper networks is that these modern technologies require power at the premises to function. Consumers may therefore be unable to contact the 111 emergency service during a power failure at their premises.
5. The provisions in the Act were introduced in recognition of the risk to vulnerable consumers this creates and required that the Commission establish a Code in mitigation.
6. The Code recognises a subset of consumers who should have reasonable access to an appropriate means of contacting the 111 emergency services due to health, safety, or disability reasons in the event of a power failure at their premises. For the purpose of the Code, these consumers are called vulnerable consumers. The Act defines in section 238(5) a vulnerable consumer as being a consumer of a specified telecommunications service who:
  - 6.1 is at particular risk of requiring the 111 emergency service (for example, due to a known medical condition); and
  - 6.2 does not have a means for contacting the 111 emergency service that can be operated for the minimum period in the event of a power failure.

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<sup>1</sup> [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0020/228314/Commission-111-Contact-Code-17-November-2020.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0020/228314/Commission-111-Contact-Code-17-November-2020.pdf)

<sup>2</sup> <https://www.legislation.govt.nz/act/public/2001/0103/latest/DLM124961.html>

<sup>3</sup> Under section 239(2), if the code is a Commission 111 contact code, interested persons includes the following:

(a) the New Zealand Police:

(b) Fire and Emergency New Zealand:

(c) the Director of Civil Defence Emergency Management:

(d) every provider of an initial call answering point for the 111 emergency service.

7. The Code sets out mandatory requirements that any provider of a retail landline service must meet if they wish to provide that service. These mandatory requirements, which incorporate the requirements set out in section 238(3) of the Act, in summary ensure that:
  - 7.1 all consumers of retail landline services are informed about the options available for vulnerable consumers;
  - 7.2 consumers have a process by which they may demonstrate to their provider that they are vulnerable;
  - 7.3 vulnerable consumers are provided with an appropriate means for contacting 111;
  - 7.4 providers will not withdraw services to vulnerable consumers; and
  - 7.5 providers keep records and disclose information to the Commission annually.
8. The Code was published on 17 November 2020 and came into effect on 1 February 2021. Providers had until 1 August 2021 to provide vulnerable consumers with an appropriate means for contacting 111<sup>4</sup>.
9. As the Code has now been in force for two years and we have received disclosures and feedback from retail landline providers, we are commencing a review of the Code to determine how well it is meeting its purpose under the Act and its requirements.
10. Recent weather events, such as Cyclone Gabrielle, have highlighted for many consumers how much modern telecommunications services depend on a reliable power supply, for equipment in the home and the wider telecommunications network to function.
11. While the Code deals with a particular aspect of resilience – power to a device in the home for emergency calling by vulnerable consumers during routine outages – it is not intended to deal with wider resilience issues involving the failure of multiple infrastructure networks (roads, electricity, telecommunications) during extreme events. When this occurs, power outages and service failures can be complex and last for extended periods of time.
12. However, this distinction does not in our view diminish the importance of the Code in meeting the needs of vulnerable consumers who may need to contact 111 emergency services in the event of a power failure, and we are approaching our review on this basis.

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<sup>4</sup> Refer Section G of the Code.

## Reviewing the 111 Contact Code

13. We can review the Code at any time, and subsequently amend it if we consider that the Code no longer meets the requirements set out in Part 7 of the Act.<sup>5</sup>
14. When considering whether the Code meets all the requirements set out in Part 7, we will consider the Code against the requirements in section 238(3) and the purpose in section 238(1).
15. Our review will consider whether there are any gaps in the Code in meeting its purpose and the requirements set out in the Act. Consideration will also be given to any improvements that could be made to assist the Code in better meeting its purpose or delivering on the requirements.
16. At the time the Code was published, we stated it was our intention to monitor the Code and that we may review and make amendments as needed.<sup>6</sup>
17. The overall goal of this review is to ensure that the Code is working as well as possible and providing effective support to vulnerable consumers.

## Process for our review

18. Our review process must follow the procedure for making or amending a Commission Code, set out in section 239 of the Act.
19. This includes –
  - 19.1 giving public notice of the process that we will follow to amend the Code;
  - 19.2 consulting with interested persons<sup>7</sup> on the proposed amendments to the Code;
  - 19.3 giving public notice of a draft amended Code;
  - 19.4 accepting and considering submissions that are made within 30 working days after we gave public notice of the draft amendments to the Code;
  - 19.5 only making the amendments if we are satisfied that the amended Code will meet all of the Code requirements set out in Part 7 of the Act; and
  - 19.6 giving public notice of the amendments to the Code.

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<sup>5</sup> Telecommunications Act 2001, section 239(5)

<sup>6</sup> [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0021/228315/Commission-111-Contact-Code-Decisions-and-Reasons-Paper-17-November-2020.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0021/228315/Commission-111-Contact-Code-Decisions-and-Reasons-Paper-17-November-2020.pdf)

<sup>7</sup> If the code is a Commission 111 contact code, interested persons includes the following:  
(a) the New Zealand Police;  
(b) Fire and Emergency New Zealand;  
(c) the Director of Civil Defence Emergency Management;  
(d) every provider of an initial call answering point for the 111 emergency service.

20. This paper is the first step in our process and seeks stakeholder views on the efficiency and effectiveness of the operation of the Code and any improvements to better meet the requirements.

### **Engagement**

21. Below is a list of stakeholders we would particularly like to hear from, and why their voices are important.

#### *Interested persons in the Act*

22. The interested persons listed in the Act (New Zealand Police, Fire and Emergency New Zealand, the Director of Civil Emergency Management and every provider of an initial call answering point for the 111 emergency service) have a specific interest in how the Code will impact the ability of vulnerable consumers to contact emergency services. They are likely to help us understand how calls are managed during power failures. We are engaging directly with these parties to help us understand the impact the Code is having in aiding consumers with their ability to contact emergency services.

#### *Industry groups and providers of a retail landline service*

23. RSPs, particularly those parties who have obligations under the Code, have played an important part in both the development of the Code and in informing the Commission of potential improvements. We would invite views from these parties and industry groups (such as TCF and ISPANZ) on their behalf to aid us in understanding the practical application of the Code from the perspective of a provider.

#### *Consumer advocacy groups*

24. We will be seeking views of consumer advocacy groups (such as Age Concern, Women's Refuge and Disability NZ), as well as representative voices of the Māori community, to test whether the Code is achieving its purpose. We will explore any perspectives on how the Code is meeting the requirements set out in the Act, and whether there are any improvements that could be made to improve outcomes for consumers.

### **Next steps**

25. Following assessment of all views and evidence received, we will prepare a draft decision paper. This will include a summary of views received and our draft decision on whether to amend the Code or not.
26. The draft decision will be published for consultation with interested parties.
27. If our draft decision is to amend the Code, we will also prepare and consult on a draft amended Code which we will publish alongside our draft decisions paper.
28. Following the consultation period, we will publish our final decision and amended Code (if we decide to amend the Code).

29. An indicative timeframe for our process is set out below.

Next Steps	Indicative timeframe
Request for Views Document issued	18 May 2023
End-user engagement	18 May – 16 June 2023
Submissions received	16 June 2023
Draft Decision paper issued	July/August
Draft amended Code issued, and public notice given (only if the draft decision is to amend the Code)	
Submissions received	August/September
Cross-Submissions received	September
Final Decision paper issued	October
Amended Code issued (only if the decision is to amend the Code)	

### Invitation to provide submissions

30. We invite submissions and feedback on:

30.1 the questions set out in this paper; and

30.2 any issues or opportunities for the future of the 111 Contact Code that you consider relevant that may not be addressed in this paper.

### *Information for interested parties on making a submission*

31. We are seeking submission on our paper by **5pm on Friday 16 June 2023**.

### *How to provide your submissions*

32. Your submission should be provided as an electronic copy in an accessible form. Please email your submission to [market.regulation@comcom.govt.nz](mailto:market.regulation@comcom.govt.nz) with the subject line "**Submission: 111 Contact Code Review.**"

33. If you wish to provide commercially sensitive information in your submission, we request that you provide, as necessary, confidential, and public versions of your submission.

34. When including commercially sensitive or confidential information in your submission, we offer the following guidance:

- 34.1 please provide a clearly labelled confidential version and public version. We intend to publish all public versions on our website;
  - 34.2 please provide reasons alongside any information in the confidential version as to why it is commercially sensitive or confidential information; and
  - 34.3 the responsibility for ensuring confidential information is not included in a public version of a submission rests entirely with the party making the submission.
35. If we consider disclosure of information for which confidentiality is claimed to be in the public interest, we will consult with the party that provided the information before any public disclosure of that information is made.

## Questions

### Requirements in the Act

- 36. We are interested in stakeholder views on whether the Code is meeting the requirements set out in the Act.<sup>8</sup>
- 37. We consider there may be opportunity to improve the Code by addressing issues that have been identified through compliance with the obligations set out in the Code.
- 38. We ask stakeholders to include in their responses as much evidence of what is and is not working as possible, particularly if it is believed the current Code should be amended to better meet or fulfil these minimum requirements.
- 39. The requirements and questions are presented below and also in [Appendix 1](#).

*Requirement 1: 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 within a defined minimum period.*

- 40. Question 1: In your experience, how has the implementation of the Code impacted the ability of vulnerable consumers (as defined in the Act) to contact the 111 emergency service during power failures? Please provide any evidence you have which supports your views.
- 41. Question 2: Do you believe that the solutions that have been provided to vulnerable consumers have been effective in providing an appropriate means of contacting 111 during an outage? Why do you hold that view?

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<sup>8</sup> Section 238(3).

*Requirement 2: Consumers are effectively informed about the options available to vulnerable consumers.*

42. Question 3: Do you believe that RSPs have effectively informed consumers about the options available for vulnerable consumers? Why do you hold that view?
43. Question 4: In your view, are all landline consumers being made sufficiently aware of the risk of loss of service during a power outage? What evidence do you have that supports that view?

*Requirement 3: Consumers and their representatives have access to effective processes to demonstrate vulnerability.*

44. Question 5: In your experience, are the prescribed processes for demonstrating vulnerability effective and accessible for consumers and their representatives? What are the reasons for your view?

#### **Other questions**

45. Question 6: Do you have any changes you would suggest making to the Code to improve its effectiveness and/or outcomes for vulnerable consumers?
46. Question 7: Do you have any views on any other matter related to the Code and/or the vulnerability of consumers who rely on the 111 emergency service? Please provide as much detail as possible.

#### **Compliance Monitoring and Feedback Received**

47. The Code requires that providers of retail landline services must, on an annual basis, disclose to the Commission information that details how compliance with the Code is being achieved.
48. In addition to information received under disclosure, it is common for us also to receive more general feedback that is useful in our decision making when considering whether a review of the Code is required.
49. For instance, our compliance work has indicated that there are RSPs who provide services to business customers only that are unsure why they are subject to the Code. Our review will consider whether the Code needs to be amended to make clearer the obligations on different types of service provider.

## Appendix 1: Summary of Requirements and Questions

*Requirement 1: 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 within a defined minimum period.*

*Requirement 2: Consumers are effectively informed about the options available to vulnerable consumers.*

*Requirement 3: Consumers and their representatives have access to effective processes to demonstrate vulnerability.*

Paragraph	Question ID	Question	Response
40	1	In your experience, how has the implementation of the Code impacted the ability of vulnerable consumers (as defined in the Act) to contact the 111 emergency service during power failures? Please provide any evidence you have which supports your views.	
41	2	Do you believe that the solutions that have been provided to vulnerable consumers have been effective in providing an appropriate means of contacting 111 during an outage? Why do you hold that view?	
42	3	Do you believe that RSPs have effectively informed consumers about the options	

		available for vulnerable consumers? Why do you hold that view?	
43	4	In your view, are all landline consumers being made sufficiently aware of the risk of loss of service during a power outage? What evidence do you have that supports that view?	
44	5	In your experience, are the prescribed processes for demonstrating vulnerability effective and accessible for consumers and their representatives? What are the reasons for your view?	
45	6	Do you have any changes you would suggest making to the Code to improve its effectiveness and/or outcomes for vulnerable consumers?	
46	7	Do you have any views on any other matter related to the Code and/or the vulnerability of consumers who rely on the 111 emergency service? Please provide as much detail as possible.	