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## 111 CONTACT CODE

### SUBMISSION TO THE COMMERCE COMMISSION IN RESPONSE TO THE “EMERGING VIEWS” PAPER

#### 1. Context

- 1.1. This is a late submission in response to the Emerging Views paper. All the contents are non-confidential and may be published.
- 1.2. WISPA.NZ is an industry group launched in 2017 to represent the interests of commercial WISPs. Our membership currently includes 28 WISPs. Members collectively service an estimated 70,000 end users, predominantly in hard-to-serve rural areas. Our service quality and affordability are comparable with mid-city fibre. About half our customers are on DMR networks owned by the WISP, and the remainder served by reselling other wholesale or retail providers' networks.

#### 2. Summary of the Issues

- 2.1. There are numerous issues in the 111 Contact Code and the Commission has a difficult challenge. The complexity, and the division in the industry, can be seen from the TCF submission which shows deeply differing views among its members over which level of the industry should carry the cost.
- 2.2. A broad summary of the issues from a WISP perspective is:
  - 2.2.1. The definition of a “vulnerable user”
  - 2.2.2. How should such users be identified – proactively by their service provider, by themselves coming forward, or some other way
  - 2.2.3. What solutions are acceptable – a cellphone programmed for 111 calls only (assuming the end user has coverage), UPS, other?
  - 2.2.4. Given that a cellphone is likely to be the cheapest option, WISPs are very heavily disadvantaged by our customer base being weighted towards areas without cellular coverage.
  - 2.2.5. Most users will require battery backup at more than one point in the home – eg the ONT and the router are often at opposite ends of the house.
  - 2.2.6. Who in the supply chain should be responsible for getting the qualification data from the consumer, and who should decide whether a particular consumer qualifies? What about retrofitting to current VoIP consumers as distinct from new connections?

- 2.2.7. Many WISPs have entered RBI2 contracts at tendered prices with no warning of the fact that the government was later going to impose such a significant cost impost.
  - 2.2.8. We believe strongly that this is a welfare service and should be funded either by the government through MSD, or spread across the industry/consumers through the Telecommunications Development Levy
  - 2.2.9. It is unacceptable for a policy of this magnitude to be implemented without some investigation into the cost and benefits
  - 2.2.10. Who will educate consumers
  - 2.2.11. These issues are discussed in more detail in section 3 below.
3. Definition of a “Vulnerable User”
    - 3.1. The Commission has taken an extremely broad view of the definition. This appears to go far beyond the intent of the legislation which specifically confines the scope to premises where there is a medical alarm or some other “Particular” situation.
    - 3.2. This is a crucial issue to the whole industry as the total cost will increase exponentially if such a broad definition is applied.
    - 3.3. Spark has mounted a very persuasive counter argument that the Commission’s approach is beyond its brief – see paragraphs 7-20 of the Spark submission.
    - 3.4. WISPA very strongly supports Spark’s view that the Commission has over-reached and must return to a narrower definition as per the legislation.
  4. Identification of a “Vulnerable User”
    - 4.1. Assuming the Commission narrows the definition to what the law envisages, there is a question whether the onus should be on the “vulnerable end user” to self-identify, or whether service providers will be required to proactively ask end users questions to triage them.
    - 4.2. If the latter, this is further discussed below under “triage.”
    - 4.3. WISPA believes “Particularly Vulnerable” end users should self-identify. The government should publicise the service including to MSD clients, and place the onus on those who consider themselves to meet the definition of “Particularly Vulnerable” to identify themselves.
  5. What solutions are acceptable?
    - 5.1. In addition to the two options in the paper (a 111-Only cellphone or a UPS) WISPA suggests in some circumstances a personal locater beacon/EPIRB could be an option.
  6. WISPs unfairly burdened
    - 6.1. The rural stronghold serviced by WISPs is such that a disproportionately high number of WISP customers are in areas without mobile coverage. Therefore, unlike other RSPs, WISPs do not have a large base of urban customers across which to spread the cost of the UPS.
    - 6.2. In some cases the only rational business response on finding that a customer was classed as “Particularly Vulnerable’ and was going to cost the service provider a substantial sum (in some cases 100% of the first year’s gross revenue) could be for the service provider to decline service to the customer.
  7. Multiple Devices Requiring Backup
    - 7.1. Depending on whether the customer is on a “WISP Wireless” connection, or on a resold fibre or copper connection, there is often more than one device in a customer’s premise requiring backup – eg an ONT, a router, and a household portable phone. In some cases they might all be capable of connecting to one UPS but in most they are likely to be a significant distance apart.
    - 7.2. The solution may be that the supplier of each device that would require backup should be responsible for ensuring backup for the element/s they supplied.
  8. Questioning End Users

- 8.1. If the Commission decides that (a) the retail service provider is responsible for assessing end users and (b) the definition is limited to “particularly” vulnerable end users, an issue arises how these people would be identified and qualified.
- 8.2. This would require asking questions that would normally be outside the scope of an RSP’s sales staff. For example, questions could include details of medical conditions, whether anyone in the house is pregnant, or whether there are other elements of “vulnerability” such as an abusive partner with a protection order. There are Privacy Act considerations that appear not to have been addressed. Unlike mainstream telcos, WISP sales staff are usually based down the road from the customer which adds to the sensitivity.
- 8.3. Some customers may see the process as an opportunity to get a free UPS even though they do not qualify. Somebody needs to make a judgement call in such an incidence. That is not an appropriate role for a sales person employed by an RSP.
- 8.4. WISPA submits that the role of the RSP should be to direct customers who think they may be “vulnerable” to MSD, who can then provide the RSP with a certificate to that effect.
9. RBI2 Contracts
  - 9.1. RBI2 contracts have been let by CIP with the contracted provider having no knowledge that another arm of government was planning to add this cost impost.
  - 9.2. WISPs should be allowed to pass back to CIP the cost of UPS or cellular solutions for EEUs affected by this scheme.
10. Welfare Service
  - 10.1. WISPA submits that this initiative is essentially a welfare service and not a telecommunications one. It should fall under the Ministry of Social Development which has the budgets, knowledge about vulnerable citizens, and secure processes to deliver the service.
  - 10.2. Alternatively if the service is deemed to be a telecommunications one, then it should be funded by the Telecommunications Development Levy. That levy is currently used to fund special telecommunications services for deaf people, rural broadband, and other aspects of the 111 service. The purpose of the TDL was to alleviate many of the issues and financial anomalies alluded to above. Whatever business provides the solution should reclaim the costs from the TDL - that is exactly the kind of service for which it was created.
11. What is this going to cost
  - 11.1. It appears nobody has attempted to estimate the cost of this initiative, nor produce a cost-benefit study. On one hand the scheme could be extremely expensive to the industry especially if the Commission adheres to its current definition and many consumers see it as an opportunity to get themselves free UPS devices. Conversely it may be that a high proportion of rural customers already have UPS for their farms or homes and the problem can be fixed at a manageable cost. We need to know.
  - 11.2. Anecdotal feedback suggests that currently only a tiny minority of consumers purchasing VoIP choose to purchase battery backup – less than 5%. Also that in some cases a solution may cost in excess of \$1000 which would often be the entire first year’s revenue from the customer.
  - 11.3. Quantification is an essential first step. WISPA respectfully asks that the Commission engage in at least a rudimentary cost estimate.
12. Education
  - 12.1. Education for customers will be crucial and can only be managed by the government. Without it there is a significant risk that customers will use their UPS for purposes other than their phone (charging family laptops or the TV) or simply put it in the bottom drawer.

12.2. One way to achieve the objective would be to mandate a warning label or sticker with a standard wording on every relevant telecommunications device that does not work during a power failure. This would alert the user to the vulnerability, recommend they buy a UPS, and direct them to the vendor for information. It could also explain where to get financial support if they are “particularly” vulnerable.

### 13. Conclusion

13.1.1. In summary we submit the most cost-effective solution would be to publicise the vulnerability by a standard label on every ONT, router and household hands-free device advising users of the need for a backup option if disconnected from copper; adding that those who meet the criteria of “particularly vulnerable” may apply to MSD for a certificate enabling them to receive the backup option free of charge. Money would then be made available from MSD or the TDS to reimburse these costs in respect of certificated “Particularly Vulnerable Users.”

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