



Summerset Group Holdings Limited
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1 March 2024

Commerce Commission
PO Box 2351
Wellington 6140
New Zealand

By email: telecommunications@comcom.govt.nz

111 CONTACT CODE REVIEW – Draft amended Code and Decisions and Reasons Paper

Introduction and summary

1. The Commerce Commission ("**Commission**") has reviewed the Commission 111 Contact Code ("**Code**") and proposed some amendments.
2. Chapter 5 of the Commission's Draft Decisions and Reasons Paper ("**Paper**") raises questions about how providers of residential care or assisted living facilities are covered by the Code. Such facilities include but are not limited to retirement premises, rest and nursing homes, long-stay hospitals, dementia units and psycho-geriatric units. The Commission proposes that where a provider holds the direct billing relationship for residential landline services with the consumer, then that provider is subject to the Code.
3. Broadly speaking, Summerset residents receive residential landline services in two ways:
 - (a) independent living and serviced apartment residents contract directly with a retail service provider (who would be subject to the Code); and
 - (b) some care residents receive residential landline services where they are invoiced by Summerset.
4. We submit that the Commission should expressly exclude aged residential care facilities from the Code. Our facilities provide continuous health services to residents, including emergency response. Even in case of power failure, our responsibility to provide health services remains. Residents' first port of call in an emergency should be our trained staff, in the same way that a patient in a hospital would not call 111 if they required assistance. The obligations of the Code are superfluous in this context because our staff are the appropriate means by which 111-emergency services should be contacted. In case of power outage, our staff have access to appropriate means to contact 111 if necessary.

The Code should not apply to residential care facilities

5. Summerset has around 250 residents in residential care for whom we provide landlines and invoice the resident directly.¹ These are residents who have been needs-assessed as requiring one of the four types of aged residential care in New Zealand. As certified health services providers, we have legal obligations to provide these residents safe and appropriate care 24 hours a day, 7 days per week, including emergency response.
6. Health and Disability Services legislation mandates that we provide (among other things):²
 - (a) an appropriate call system for residents to summon assistance;
 - (b) alternative energy and utility sources in case of mains outage; and
 - (c) staff capable of providing emergency treatment appropriate to the degree of risk associated with the services provided.
7. Our view is that the billing relationship between a care resident and Summerset is irrelevant to determining whether the Code should apply. The relevant consideration is whether application of the Code would provide any benefit to Summerset residents.
8. The same standard of health service must be provided to each resident, which includes appropriately responding to emergencies and anticipating energy outages. In the context of our facilities, the appropriate means for contacting 111 is through our trained staff who are on site 24 hours a day. In the event of power failure, staff cellphones or legacy copper lines are used instead of landlines.
9. Application of the Code in this context is unnecessary and undesirable. We are concerned that the Code will require us to provide information to residents that might confuse their understanding of the appropriate response in an emergency. The provision of landlines to residents in no way acts as a substitute for the protocol already in place that residents should alert staff members if they require any form of assistance (including in the event of any emergency).
10. Any steps taken to provide care residents with the opportunity to apply for status as vulnerable consumers would be onerous and provide no material benefit for the residents. None of our care residents will meet the second criteria in the definition of "vulnerable consumer" set out in clause 9.2 of the Code as someone who:

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.
11. Our residents do have means for contacting 111 in the event of a power failure – our on-site staff. We question what further appropriate means we could supply in our care facilities as

¹ We will shortly have transitioned all our independent living and serviced apartment residents to contract directly with their landline provider.

² Health and Disability Services (Safety) Act 2001, Health and Disability Services (Safety) Standards Notice 2021, Nga Paerewa Health and Disability Services Standard (NZS 8134:2021)

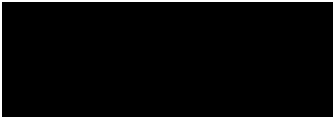


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many of our residents may be unable to tolerate or operate new technology in their rooms. Inclusion of aged residential care facilities in the Code would fail to recognise the varying needs and abilities of our residents and the level of care provided by staff members.

12. If the Commission does not expressly exclude aged care residential facilities from the Code, we seek acknowledgement that it does not in fact require any further actions on our part.
13. We would be more than happy to discuss the above in more detail with you as part of the consultation process.

Yours sincerely



Robyn Heyman
General Counsel