

MIGRATION PLAN

REQUIRED MEASURES

Decision made under section 577A(18) of the *Telecommunications Act 1997*

DIRECTION

Pursuant to section 577A(18) of the *Telecommunications Act 1997* and clause 5.4 of Telstra's Migration Plan, the Australian Competition and Consumer Commission (the ACCC) has decided not to approve draft required measures 2, 3, 4 and 6, and directs Telstra to resubmit, within 40 business days of this Direction, draft required measures 2, 3, 4 and 6, amended to take into account the concerns specified in the ACCC's decision paper. These concerns are outlined below.

Note: The ACCC's Decision paper on required measures 2, 3, 4 and 6 provides illustrative examples of how the draft required measures could be amended to take into account the following concerns.

ACCC concerns

Required measure 2: Process for Managed Disconnection of Copper Services (which are not Special Services) on the Disconnection Date

The draft required measure includes arrangements for the disconnection of Affected Premises (as defined in the Definitive Agreements) that are inconsistent with arrangements set out in the Definitive Agreements.

The draft required measure does not include sufficient detail to enable the ACCC to be satisfied that wholesale customers will receive equivalent notification of the final disconnection list as Telstra's retail business units will receive.

The draft required measure does not commit Telstra to facilitate wholesale customer management of the migration of their end-users to in a way that minimises the period of any service outage. This is because the draft required measure does not include sufficient commitments to notify wholesale customers of premises that still have active copper services in the lead up to the disconnection date for that rollout region.

The draft required measure does not provide sufficient detail to enable the ACCC to be satisfied that the process for disconnecting premises during the primary disconnection window will be implemented in an equivalent manner.

The draft required measure does not provide sufficient assurance that wholesale services will not be placed on the final disconnection list in error. This reflects that:

- (a) at least some wholesale services will comprise special services or special service inputs that have not reached their disconnection date, and these wholesale services should not be on the final disconnection list; and

- (b) the draft required measure does not provide a process whereby a wholesale customer can notify Telstra of its wholesale services that should not be disconnected.

Required measure 3: Process for Managed Disconnection of HFC Services

The draft required measure includes arrangements for the disconnection of Affected Premises (as defined in the Definitive Agreements) that are inconsistent with arrangements set out in the Definitive Agreements.

Required measure 4: Processes for Telstra to build Copper Paths at Premises which had previously been permanently disconnected, in order to supply Special Services and Special Service Inputs to that Premises

The draft required measure is inconsistent with the Definitive Agreements as it does not include a commitment that a copper path that is built at premises which had previously been permanently disconnected cannot be used to supply any copper service, other than the exempt special service.

The draft required measure does not include sufficient detail to enable the ACCC to be satisfied that the timeframe for Telstra personnel to approve the supply of a special service at a premises which had previously been permanently disconnected will be equivalent as between wholesale customers and Telstra's retail business units.

Required measure 6: The NBN Information Security Plan

The draft required measure does not adequately address concerns that Telstra may use NBN Co Migration Information to obtain an unfair commercial advantage. This is because:

- The draft required measure does not protect all the NBN Co Migration Information that should be protected.
- Telstra personnel, in particular retail staff, may have the capacity to use and disclose NBN Co Migration Information even though they do not "need to know" NBN Co Migration Information (as defined in the Migration Plan).
- Telstra personnel may be able to use and disclose NBN Co Migration Information that is not stored in relevant systems covered by the draft required measure.

The draft required measure provides inappropriate mechanisms for any future amendment or variation to the required measure.

For the purpose of this direction, a term or expression starting with a capital letter:

- (a) Which is defined in the migration plan, has the meaning given to it in the migration plan;

- (b) Which is defined in the Structural Separation Undertaking, but is not defined in the migration plan, has the meaning given to it in the Structural Separation Undertaking;
- (c) Which is defined in the *Telecommunications Act 1997*, but is not defined in the migration plan or the Structural Separation Undertaking, has the meaning given to it in the *Telecommunications Act 1997*.