



**Australian
Competition &
Consumer
Commission**

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10 September 2010

Ms Jane van Beelen
Executive Director, Regulatory Affairs
Public Policy and Communications

By email: Jane.vanBeelen@team.telstra.com

Cc: Tracy.Thomas@team.telstra.com

Cc: Christine.E.Williams@team.telstra.com

Dear Ms van Beelen

Closure of South Brisbane (QLD) exchange

Thank you for your advice to date on Telstra's intentions to close the South Brisbane exchange.

The purpose of this letter is to outline the ACCC's understanding, and to seek Telstra's confirmation, of the additional steps Telstra will take to keep its wholesale customers fully informed of:

- Telstra's progress towards closing the exchange; and
- the arrangements that Telstra proposes to offer to allow wholesale customers to continue servicing retail customers in the exchange area.

The ACCC considers that this advice should be made available to Telstra's retail business units and wholesale customers on an equivalent basis, and with sufficient detail and lead times, to ensure that competition and end-user services are not disrupted.

In this regard, Annexure A to this letter outlines a notification regime that the ACCC considers would be reasonable for Telstra to adopt for a planned closure of an exchange in the current circumstances. While this notification regime focuses on ULLS services, it will be broadly applicable to other access services that Telstra offers.

I note that this notification regime was developed in consultation with Telstra and other service providers, and that the ACCC has previously provided a copy of it to Telstra. I also note that Telstra has been acting consistently with this notification

regime in respect of the South Brisbane exchange in providing its 'general notifications'.

Under this notification regime, Telstra would be required to provide individual notifications to all affected access seekers at least 26 weeks before withdrawing existing access services, and that this notice is to outline amongst other things the likely action required of wholesale customers and the impact on existing services.

Given that Telstra is anticipating withdrawing access seeker services on 1 March 2011, the individual notifications to affected access seekers would be due on 27 September 2010.

The ACCC considers that it would be appropriate for Telstra to include in this notice the wholesale access products that Telstra intends to make available in the South Brisbane exchange area over the FTTP network, and in particular the access products that it proposes to offer to support broadband services.

This position reflects:

- the level of concern expressed by access seekers around the absence of any further guidance on the wholesale access products that Telstra intends to provide;
- Telstra's limited advice that it is working through the transition arrangements for all products affected by these network changes and is assessing the availability of alternative fibre based product offerings;
- product specifications are available for the fibre (velocity) products that Telstra supplies on a retail basis, and for the announced wholesale fibre access broadband layer 2 internet grade product to be offered in the Point Cook exchange service area; and
- Telstra will owe standard access obligations for Wholesale Line Rental service over the fibre network and hence will be required to have a WLR service specification.

I would appreciate if Telstra would confirm whether it intends:

- to continue acting in accordance with the attached notification regime, including that Telstra will provide individual notifications to all affected access seekers at least 26 weeks prior to the network upgrade; and
- to include in this notice the wholesale access products that it intends to offer over the FTTP network in south Brisbane.

I would also appreciate Telstra's advice as to the likely timing of its next notices to affected wholesale customers, and that it will continue to keep the ACCC informed of any developments concerning the closure of the South Brisbane Exchange and introduction of fibre services in that service area.

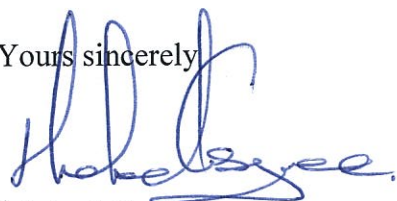
Your response to the above questions is sought by close of business on Friday **17 September 2010**.

Information provided will assist the ACCC in responding to access seeker concerns and inform our assessment of the likely impact on access seekers and end-users.

As the ACCC continues to receive significant interest from Telstra's wholesale customers on this matter, and this matter has significant implications for both wholesale and retail customers in the South Brisbane exchange area, a copy of this letter and Telstra's response will be posted on the ACCC's website.

If you have any queries in relation to this letter please contact Sean Riordan on (03) 9290 1889.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Michael Cosgrave', with a stylized flourish at the end.

Michael Cosgrave
Group General Manager
Communications Group

Annexure A – ULLS Network Modernisation and Upgrade Terms

Notice to be provided where the Access Provider undertakes a Major Network Modernisation and Upgrade

1. Except where the parties agree otherwise, the Access Provider may make a Major Network Modernisation and Upgrade by:
 - (a) providing the Access Seeker with notices in writing in accordance with clauses 2 and 4 (**General Notification**) and clauses 3 and 5 (**Individual Notification**); and
 - (b) consulting with the Access Seeker, and negotiating in good faith, any reasonable concerns of the Access Seeker, in relation to the Major Network Modernisation and Upgrade.

This clause 1 does not apply to an Emergency Network Modernisation and Upgrade.
2. The period of notice given under a General Notification provided by the Access Provider to the Access Seeker:
 - (a) must be an Equivalent Period of Notice; and
 - (b) in any event, must not be less than thirty weeks before the Major Network Modernisation and Upgrade is scheduled to take effect.
3. An Individual Notification must be provided by the Access Provider to the Access Seeker as soon as practicable after the General Notification, but, in any event, not less than twenty-six weeks prior to the anticipated commencement date of the Major Network Modernisation and Upgrade.

Information to be provided in the notices

4. A General Notification must include information on:
 - (a) the exchange service area affected by the proposed Major Network Modernisation and Upgrade;
 - (b) the distribution area affected by the proposed Major Network Modernisation and Upgrade; and
 - (c) a general description of the proposed Major Network Modernisation and Upgrade, including the indicative timing for the implementation of the Major Network Modernisation and Upgrade.
5. An Individual Notification must include the following information in addition to the information provided in the relevant General Notification:
 - (a) the anticipated commencement date for implementing the Major Network Modernisation and Upgrade;
 - (b) details of the Access Seeker's ULLS activated or in the process of being activated at the date of the notice that are likely to be affected by the Major Network Modernisation and Upgrade;

- (c) the likely action required by the Access Seeker as a result of the Major Network Modernisation and Upgrade (including the possible impact of the Major Network Modernisation and Upgrade upon the Access Seeker's ULLS); and
 - (d) details of who the Access Seeker may contact to obtain further information about the Major Network Modernisation and Upgrade.
- 6. An Individual Notification only needs to be given where a ULLS has been activated or the Access Provider is in the process of activating a ULLS as at the date of the Individual Notification, and:
 - (a) the Major Network Modernisation and Upgrade will require the Access Seeker to take particular action in order to continue to use the ULLS; or
 - (b) the Major Network Modernisation and Upgrade will result in the ULLS no longer being supplied.
- 7. Where the Access Provider has provided the Access Seeker with an Individual Notification, the Access Provider must provide the Access Seeker with:
 - (a) updates about the Major Network Modernisation and Upgrade covered by the notice, including:
 - i. any update or change to the information provided in the Individual Notification;
 - ii. any new information available at the time of the update about:
 - (A) services provided by the Access Provider in the relevant exchange service area that may be available to the Access Seeker;
 - (B) how the Access Seeker may be impacted by the Major Network Modernisation and Upgrade; and
 - (C) what steps the Access Seeker will be required to take to facilitate the Major Network Modernisation and Upgrade; and
 - (b) weekly reports about the anticipated cutover dates for the Access Seeker's affected services, beginning no less than five weeks prior to the anticipated commencement date for the Major Network Modernisation and Upgrade.
- 8. The updates referred to in subclause 7(a) are to be provided regularly (which is not required to be any more frequently than monthly) after the Individual Notification.

Definitions

9. For the purposes of this Annexure:

'Coordinated Capital Works Program' means a planned Major Network Modernisation and Upgrade that extends across more than one exchange service area but does not include an Emergency Network Modernisation and Upgrade or an NBN Upgrade.

'Emergency Network Modernisation and Upgrade' means a Major Network Modernisation and Upgrade that is required and is reasonably necessary and a proportionate response to address an Emergency.

'Emergency' means an emergency which requires a significant and coordinated response due to an actual or potential occurrence (such as fire, flood, storm, earthquake, explosion, accident, vandalism, theft, epidemic or war-like action) that:

- (a) endangers or threatens to endanger the safety or health of persons; or
- (b) destroys or damages, or threatens to destroy or damage, property.

'Equivalent Period of Notice' means a period of notice commencing at the time that the Access Provider has approved and allocated the capital expenditure or otherwise approved and made a decision to commit to a Major Network Modernisation and Upgrade.

'Major Network Modernisation and Upgrade' means a modernisation or upgrade that:

- (a) involves the installation of the Access Provider's customer access modules closer to ULLS end-users than the Access Provider's exchange building;
- (b) requires the truncation of ULLS provided from the Access Provider's exchange buildings, or the establishment of a new point of interconnection (or relocation of an existing point of interconnection) for the ULLS, or alteration of deployment classes of equipment used on the ULLS; or
- (c) results in the ULLS no longer being supplied or adversely affects the quality of that service (or any services supplied by the Access Seeker to their end-users using the ULLS),

but does not mean, or include, an Emergency Network Modernisation Upgrade or an NBN upgrade.

'NBN Upgrade' means a planned Major Network Modernisation and Upgrade by the Commonwealth of Australia and/or NBN Co that upgrades an existing access network as part of a fibre to the premises upgrade.