



29 October 2012

Rebecca Holland
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Australian Competition & Consumer Commission
Level 35, 360 Elizabeth Street
Melbourne VIC 3000

By Email: ssu-migration@accc.gov.au.

Dear Ms Holland

Telstra's proposed variations to the migration plan - Cease Sale Obligation

Thank you for the opportunity to comment on Telstra's proposed changes to clause 17 of the Migration Plan, which prohibits Telstra from supplying new Copper Services and HFC Services after a Premises becomes NBN Serviceable (**Cease Sale Obligation**).

AAPT's comments in relation to Telstra's proposed changes are as follows:

1. **Time to process data** – AAPT is not opposed to the proposal to extend the commencement date of the Cease Sale Obligation to the later of 1 May 2013 or 10 Business Days after the Ready for Service Date of the Rollout Region.
2. **Supply of "New" Services** – AAPT is not opposed to changes which clarify that the Cease Sale Obligation applies in respect of an order or request, at the time that order and request is made. However, AAPT would like to add the extra condition that the Cease Sale Obligation will only apply at the time that an order and request is made *provided that order or request has not been rejected by NBN Co for any reason.*

AAPT wishes to avoid it being stranded in the circumstances where NBN Co cannot, for any reason, fulfil an order, and Telstra also cannot fulfil the order because of, or reliance on, the wording of the Cease Sale Obligation provision.

3. **Premises "Passed"** – Telstra has submitted that it is unnecessary to rely on "Passed" information in the Migration Plan to make Cease Sale work for the following reasons:

A Passed Premises cannot obtain an NBN Service until it is serviceable, which may be some time after it is Passed, and one of Telstra's concerns in the implementation of Cease Sale was the potential for an end-user to be left without a service during the activation period allowed by the End User Connection Service Levels in NBN Co's Wholesale Broadband Agreement where the application of Cease Sale applies to the order would prevent Telstra from supplying a service.

Like Telstra, AAPT also wants to avoid its end-users being left without a service due to the inadvertent application of the Cease Sale Obligation. AAPT considers this can be better achieved by including a condition as proposed by AAPT in item 2 above.

AAPT does not consider that removing the term "Passed" would assist in addressing this situation in any way. Rather, AAPT considers that it is important to retain the condition that a Premises must be Passed, as well as be NBN Serviceable.

For example, AAPT notes that the definition of when a Premises is "NBN Serviceable" is by reference to the outputs of the NBN Co service qualification system. If there is ever an error in the NBN Co service qualification system, this could give rise to the circumstances where a premises may supposedly be "NBN Serviceable", but has not, in fact, been "Passed".

Accordingly, AAPT considers it important to maintain the condition that a Premises must be both Passed and NBN Serviceable before the Cease Sale Obligation applies.

AAPT does not have any comments in relation to Telstra's "typographical and other unsubstantial amendments".

Yours sincerely



Danet Khuth
Corporate Counsel