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Mr Sean Riordan
General Manager
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Communications Group
Australian Competition and Consumer Commission
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Dear Mr Riordan

Request to Vary Telstra's Migration Plan to Create a New Exception to Cease Sale

As discussed with you previously, Telstra requests approval from the Australian Competition and Consumer Commission (the Commission) to a minor variation of the Migration Plan as allowed by s 577BF of the *Telecommunications Act 1997 (Cth)*. The effect of the variation would be to vary Clause 17 of the Migration Plan to allow a limited exception to the prohibition on the connection of new voice copper services under the cease sale obligation. Telstra believes that this proposed change is a minor variation only to the Migration Plan, and that accordingly, the Commission should not need to consult with industry for a full 28 days prior to accepting the variation.

Telstra has obtained consent from NBN Co to this variation to the Migration Plan.

The ACCC's acceptance of the variation will allow customers who fall within the limited scenario described below to have a better experience in transitioning to the NBN. More particularly, this variation will allow a customer to change their voice service provider on transition to the NBN ("churn transition") in circumstances where Local Number Portability does not apply. Once approved, Telstra can establish the churn transition in a one-step NBN connection process that enables customers to keep their voice service over copper temporarily active until the NBN path is established and the customer's telephone number can be associated with the NBN voice service. Without the one-step process, customers in the churn transition scenario would be required to disconnect their voice services prior to the NBN order being lodged and then seek to recover their telephone number from quarantine when the NBN path is ready. This disconnection would mean customers are without fixed voice services for, potentially, several weeks and would face the risk of losing their existing telephone numbers through the number quarantine process. This is an unsatisfactory end-user experience, which Telstra is keen to address.

The Scenarios Relevant to this Requested Variation

This variation is designed to address customers' needs to have an active voice service during transition to the NBN in a churn transition scenario. It is only relevant to orders for new voice services where the end user wants to change their retail service provider for their voice service under one of the following churn scenarios:

- i) from Telstra Retail to a Wholesale Customer ordering NBN services from Telstra Wholesale;
- ii) from a Wholesale Customer using the wholesale line rental service to Telstra Retail; and
- iii) from a Wholesale Customer using the wholesale line rental service to another Wholesale customer ordering NBN services from Telstra Wholesale.

In addition the order must meet all of the following criteria:

- the order includes a voice service on the NBN;
- the customer has an existing fixed voice service on Telstra's copper network; and
- the customer wants to retain their telephone service number for use on the NBN and keep their fixed voice service active during the transition.

New orders for ULL, LSS and ADSL services are not impacted by this variation. The cease sale obligation will continue to apply to these services where appropriate. Where the migrating customer has an ADSL service as well as a voice service, only the voice services will move to the new RSP prior to the NBN service being connected. The ADSL will not be connected to the gaining RSP but will be retained by the losing RSP until the customer cancels the service.

The connection of the voice service over copper to a new RSP is only a temporary service required for the new NBN service order to proceed, and it would only operate until the connection to the NBN is completed. Without this variation, Telstra will be unable to accept the order for the NBN service. This is because each telephone number can have only one order in progress at a time under Telstra's systems and the RSP placing the NBN order must have the clear right to supply services to the telephone number, i.e. the number is churned to the gaining RSP's control.

Details of the Proposed Variation

Telstra proposes that the variation be effected by including a new section 17.2 within the Cease Sale Obligation, as follows:

17 No Supply of New Copper Services and HFC Services after a Premises becomes NBN Serviceable

17.1 No supply of Copper Services

Subject to sub-clauses 17.2, 17.3 and clause 21, Telstra will not supply any new Copper Service to a Retail Customer or to a Wholesale Customer using a Separating Network after the Cease Sale Commencement Date for a Rollout Region at a Premises within the Fibre Footprint in that Rollout Region which, at the time the order or request is received by Telstra:

- (a) is NBN Serviceable; or
- (b) is not NBN Serviceable but would require the installation of new copper or other infrastructure (i.e. there is not an "in-place" copper connection at the Premises) except and to the extent that Telstra in its discretion supplies a new Copper Service to the Premises in order to fulfil a USO requirement.

17.2 Copper Services required to retain a telephone number in association with a new NBN Connection

A service will not be treated as a new Copper Service for the purposes of clause 17.1 where a Retail Customer or the end user of a Wholesale Customer wishes to retain their existing telephone number in the course of Migration and:

(a) connection of that Copper Service is reasonably required to enable the telephone number to be retained following NBN Connection; and

(b) the telephone number cannot be transferred in the course of NBN Connection by means of an LNP Request.

17.3 No supply of HFC Services

Telstra will not supply any new HFC Service to a Premises using a Separating Network after the Cease Sale Commencement Date for a Rollout Region at a Premises within the Fibre Footprint in that Rollout Region which is NBN Serviceable.

17.4 Commencement and operation of Clause 17

Sub-clauses 17.1, ~~and~~ 17.2 and 17.3 do not apply to orders or requests for the supply of new Copper Services or HFC Services received by Telstra prior to the Cease Sale Commencement Date.

If accepted, the proposed variation to the Migration Plan will benefit end-users, Wholesale Customers and Telstra.

Benefits to End-User Customers of Telecommunication Services

The requested variation will benefit end-users for the following reasons:

- It will permit the submission of a single order for a combination of processes for churn and NBN voice services. The end-user in the limited scenarios above will not be required to separately cancel their existing copper services with their existing RSP in order to change providers as part of the migration to the NBN. The variation will allow end-users who wish to change providers in migrating to the NBN, to experience a seamless, one-step transition.
- Without the variation, affected end-users would need to cancel their voice service first, before their new RSP could place an order for the NBN services, thereby leaving the end-users without a voice service for a period of time (potentially several weeks) until the NBN service is connected.
- It will prevent end-users' numbers being quarantined, experiencing additional difficulty in seeking to retrieve their current telephone number out of quarantine in order to maintain that number on the NBN.
- It will align the experiences of end-users relevant to this variation with the experiences of end users choosing RSPs that do not use Telstra to supply the NBN voice service, or who wish to retain their current provider in migrating to the NBN.

Benefits to Wholesale Customers and Telstra

Wholesale customers and Telstra will benefit from the streamlined process that this variation for reasons which include the following:

- It will allow the gaining RSP to place a single order for the new NBN service. Without the streamlined process for customers in this scenario that this variation allows, the losing RSP would need to first cancel the existing copper service and the gaining RSP would need to order the NBN service.
- It will avoid relying on two separate processes that would likely take more time to complete than a single combined process, with the potential of losing the end-user customer who would likely be dissatisfied with the process.
- It will place Telstra and impacted Wholesale Customers on an equal footing with other RSPs who can use existing local number portability processes that already permit the transfer of voice telephone services in relevant instances to the NBN as part of the NBN migration.
- It will provide RSPs with the ability to obtain the necessary customer authorities upfront, promoting a better end-user experience.

Requested Change is a Minor Variation

Telstra considers that this variation is a minor variation for the following reasons:

- the variation does not involve a material change in the effect of the Migration Plan because:
 - The time for which the new copper service will be supplied is limited. The services will only be connected on copper immediately prior to being disconnected when the migration to the NBN occurs. The expected time between churning the service and connecting to the NBN is up to four weeks, but this is dependent upon the ability to obtain an appointment with NBN Co for the NBN connection, or the customers' preferred time for connection.
 - The variation is only relevant to one of many different scenarios that can occur for customers migrating their voice services to the NBN. For example, the process does not apply to customers migrating their voice services with their existing provider, or who choose to migrate to a new provider on the NBN where Local Number Portability will provide a smooth transfer of the end-user's telephone number to their NBN voice service. It also has no application where the end-user does not wish to acquire voice services over the NBN.
- The scope of changes required only impacts the Cease Sale Obligation, not other aspects of the migration to the NBN.
- There is no IT build required by RSPs. RSPs will simply use a new ordering code for this order type, which will be communicated to them by Telstra Wholesale.
- There is no detriment to industry or end-users that would result from the variation being implemented. In fact, as outlined above, consumers will benefit from a much improved experience migrating to the NBN. Without the variation, there is potential for an unsatisfactory end-user experience that will disadvantage end-users who happen to be within the scenarios listed above.

The proposed variation is also consistent with the Minister's Telecommunications (Migration Plan Principles) Determination 2011. The proposed variation is to permit the churn of services in the limited scenario where customers requesting NBN voice services also want to change service provider as part of the migration to the NBN, and Local Number Portability will not apply to assist in the transfer of their telephone number to their new service. The variation is needed to permit a new streamlined process that facilitates end-users and RSPs in this scenario. The process will be implemented in an equivalent manner combining two existing business as usual processes into one streamlined process. Therefore, in Telstra's view this variation would be consistent with the Determination.

It is Telstra's view that the Commission should accept the proposed variation.

If you have any questions, please do not hesitate to contact Trish Cameron on (02) 61294635.

Yours sincerely



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