



12 April 2013

Mr Sean Riordan
General Manager
Industry Structure & Compliance Branch
Australian Competition and Consumer Commission
By email: seam.riordan@acc.gov.au

Dear Sean,

Request to Vary Telstra's Migration Plan

On the 4 April 2013, Telstra requested approval from the Australian Competition and Consumer Commission for three separate variations to the Migration Plan as allowed by s 577BF of the *Telecommunications Act 1997 (Cth)*. Optus submits the following comments on the three variations.

1. Defer the Commencement of the Cease Sale Obligation in Clause 17

Optus does not object to the deferral of the Commencement of the Cease Sale Obligation particularly as the details of the deployment of MSQ for some end user scenarios needs to be clarified. The relevant clarifications are set out in Optus' letter to you of 3 April 2013.

2. Add Initial Release Rollout Regions

Telstra proposes to add 82 FSAMs (*Specified Rollout Regions*) to the Initial Release Rollout Region. This would enable NBN Co to determine, at its discretion, the *Disconnection Commencement Date*. Optus does not understand the rationale for this change as it appears to remove the requirement for NBN Co to publish on its website the *Ready for Service Date* for that Rollout Region.

Optus requires further clarity on this proposal and requests that Telstra provide a valid reason for the proposal.

3. Allow an Exception to the Cease Sale Obligation to Create a New Exception to Cease Sale as part of the NBN Migration in Limited Circumstances

This exception will allow end users to churn between Telstra Retail services and Telstra Wholesale services when Cease Sale is in place. In contrast, the ability for end users to churn to, and from, ULLS services is excluded after Cease Sale. Therefore, approval of this exemption will result in acquirers of ULLS and acquirers of Telstra's retail or resale services being treated in a non-equivalent manner.

Telstra has characterised the need to implement this exception based on the inadequacy of the Telstra systems. Optus submits that there are many system changes that need to be

implemented by all RSPs to enable connection to the NBN and Telstra should be obliged to amend its systems, or processes, to deliver a service to its end users.

Additionally, to allow this exemption will simply serve to confuse end users in Cease Sale Rollout Regions who will be able to churn service providers in some scenarios, and not in other scenarios.

Optus submits that the ACCC should not grant the exemption to add Initial Release Rollout Regions or grant the exceptions to the Cease Sale Obligations in circumstances that only assist Telstra customers. At a minimum, the ACCC should consult the industry prior to accepting any variation.

Yours sincerely

A handwritten signature in black ink, appearing to be 'AS', with a long horizontal flourish extending to the right.

Andrew Sheridan
Head of Interconnect & Economic Regulation