



25 September 2020

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Australian Competition and Consumer Commission  
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Dear Mr Riordan,

**Notification of Telstra's performance continuing to be affected by a Force Majeure Event under Telstra's Migration Plan**

On 1 April 2020, the Australian Competition and Consumer Commission wrote to Telstra to confirm your agreement that the COVID-19 pandemic constitutes a Force Majeure Event under the Migration Plan.

On 24 August 2020, we updated you of revised arrangements for managed disconnections in Victoria in response to the ongoing COVID-19 pandemic. Within that update we re-invoked our Force Majeure Event rights under clause 4.5 of the Migration Plan. We also advised the uncertainty and risk continued to evolve and that we would provide you further updates on any material developments.

On 22 September 2020, nbn co and Telstra agreed to provide a further extension to the managed disconnection arrangements for active copper and HFC services in the state of Victoria. This decision was made as a result of the continuing impacts of the COVID-19 pandemic in the state of Victoria as previously outlined, including where ongoing restrictions and general health and safety concerns are preventing end-customers making decisions or restricting their ability to migrate off Copper and HFC services in Rollout Regions nearing Service Disconnection.

Accordingly, Telstra is seeking to implement new arrangements for managed disconnections for end-customer premises in Victoria, pursuant to the existing Force Majeure Event notice we recently provided.

Under clause 4.5 of the Migration Plan, Telstra will not contravene the Migration Plan, or be liable for any delay or failure to perform obligations, to the extent that the delay or failure is caused by a Force Majeure Event.

For the reasons outlined above, Telstra considers that the ongoing impacts of the COVID-19 pandemic (at least in respect of premises in the State of Victoria and within registered Nursing Homes and Aged Care facilities outside Victoria where lock-down or site restrictions are being enforced) continue to constitute a Force Majeure Event for the purposes of clause 4.5 of the Migration Plan and continue to potentially prevent or delay Telstra from performing its obligations in respect of managed disconnections under the Migration Plan.

This letter provides you with additional details of the continued events affecting Telstra's performance of managed disconnections under the Migration Plan, and the steps Telstra is taking (with nbn co's agreement) to address the effects of these events.



The details of the amended arrangements we are seeking to put in place for managed disconnections, with nbn co's consent, are as follows:

**Premises in Victoria included within the disconnection cohort previously granted a migration window of 120 BDs from 1 July 2020**

We are proposing to defer the scheduled disconnection arrangements for premises (as previously advised) in the state of Victoria with remaining active services by a further 40 Business Days to provide a migration window of 160 Business Days from 1 July 2020:

	<b>Existing</b>		<b>Proposed</b>	
<b>Cohort of Premises in Victoria impacted:</b>	<b>Service Disconnection commences from:</b>	<b>Service Disconnection step completes on:</b>	<b>Service Disconnection commences from:</b>	<b>Service Disconnection step completes on:</b>
1. All Waves up to and including Wave 70 i.e. DD's up to 13- Mar-2020.  2. Changed Technology SS Premise with an Extension Date up to 31-Aug- 2020.  3. Frame Relay and ISDN SS In-Train Order Premises subject to the 30- Sep-19 SS DD (i.e. FTTP, FTTB and FTTN).	14-Dec-2020	18-Dec-2020	12-Feb-2021	18-Feb-2021

These proposed arrangements will align the disconnection milestones and timings for all Waves up to and including Wave 70. We confirm that RSPs can still submit orders for disconnection and transition to nbn co at any time prior to these new service disconnection dates.

**Premises in Victoria included within Waves 76, 77 and 77b**

We are proposing to amend the service disconnection arrangements for premises in the state of Victoria from what would ordinarily occur soon after the respective Rollout Region Disconnection Date (**RRDD**) as set out in clause 14 of the Migration Plan, Required Measure 2 and Required Measure 3, to the align with the disconnection of Phase 2 In-Train Order (ITO) Premises (i.e. commencing 150 Business Days post RRDD):

	<b>Existing</b>	<b>Mechanism</b>	<b>Proposed</b>	
<b>Cohort of Premises in Victoria impacted:</b>	<b>Normal Service Disconnection arrangements following RRDD</b>		<b>Service Disconnection commences from:</b>	<b>Service Disconnection step completes on:</b>
Wave 76 (including previously aligned Wave 71 and 72)	DD 11-Sep-2020	Re-align service disconnection from DD	23-Apr-2021	30-Apr-2021



Wave 77 (including previously aligned Wave 73)	DD 9-Oct-2020	milestone to In Train Order (ITO) Phase 2 (i.e. DD +150 Business Days)	20-May-2021	27-May-2021
Wave 77b (including previously aligned Wave 74)	DD 23-Oct-2020		3-Jun-2021	10-Jun-2021

Given the above extension arrangements for premises in Victoria, Telstra will not be enforcing Soft Dial Tone following the above RRDD milestones in order to maintain the continued operation of the services to the end customers in accordance with clause 21 of the Migration Plan. To the extent RSPs also have the capacity to apply a Soft Dial Tone or suspensions to end-customer services, they can decide whether it will serve as a useful prompt for their customers to take action. We confirm that RSPs can submit orders for disconnection and transition to nbn co at any time prior to these new service disconnection dates.

Details of these revised disconnection arrangements as they apply to specific services will be communicated to Wholesale Customers in a timely and effective manner via their Service Profile available on our Wholesale Customer Portal.

### Update on premises within registered Nursing Homes and Aged Care facilities

We will continue to protect all identified services at premises within Nursing Homes and Aged Care facilities that are located either in Victoria, or in other states and territories where lock-down or site restrictions are being enforced, for the foreseeable future. This protection continues to apply to where disconnection arrangements or milestones are otherwise scheduled to come into effect during the 2020 calendar year (i.e. up to and including Wave 78 (DD 13-Nov-2020)).

At this stage we have not yet developed the proposed disconnection arrangements together with nbn co. As previously advised, we will keep Wholesale Customers and the ACCC informed and provide sufficient notice of when managed disconnections for this cohort of premises will recommence.

### Next Steps

Our response to managed disconnection activity in the face of the uncertainty and risk created by the COVID-19 situation continues to evolve. We will continue to provide you with updates of any material developments in our approach as further information becomes available and decisions are reached together with nbn co. Further, we will similarly continue to notify our Wholesale Customers and Retail BU on an equivalent basis of any developments with our approach as appropriate.

Further, in accordance with clause 4.5(c)(ii) of the Migration Plan, Telstra will notify the ACCC in the event that it becomes aware that the Force Majeure Event has ceased to affect its obligations under the Migration Plan.

Should you have any queries about this matter please contact Steven Kuluveovski (03 8694 5609 or [steven.kuluveovski@team.telstra.com](mailto:steven.kuluveovski@team.telstra.com)).

Yours sincerely

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