



21 September 2021

Mr Sean Riordan  
General Manager, Communications and Advocacy Branch  
Australian Competition and Consumer Commission  
Level 17, Casselden Place  
2 Lonsdale Street  
Melbourne Vic 3000  
**Email:** [sean.riordan@accc.gov.au](mailto:sean.riordan@accc.gov.au)

**Copy To:**

Mr Darren Kearney  
**Email:** [darren.kerney@accc.gov.au](mailto:darren.kerney@accc.gov.au)  
Ms Ifa Rush  
**Email:** [ifa.rushdi@accc.gov.au](mailto:ifa.rushdi@accc.gov.au)

Dear Mr Riordan,

**Notification of an extension to Telstra's COVID-19 related Force Majeure Event under our Migration Plan**

In light of a recent agreement between Telstra and nbn co to defer managed disconnection arrangements for premises in the states of NSW and Victoria, we are now giving the ACCC notice of our intention to extend an in-place Force Majeure Event under the Migration Plan, due to the ongoing impacts of COVID-19.

We originally notified the ACCC of our intention to invoke a Force Majeure Event on 26 March 2020, with updates provided to the ACCC on 3 July, 24 August, 25 September 2020 and on 22 April 2021 as the impacts of COVID-19 continued to evolve.

The last of the deferred managed disconnection activities introduced in the 2020 calendar have only recently concluded. Unfortunately, serious COVID-19 impacts have persisted in the states of NSW and Victoria during the second half of the 2021 calendar year. This prompted our announcements to Wholesale Customers of further deferrals to managed disconnection arrangements on both 23 August and on 3 September 2021, following agreements we reached with nbn co.

**Justification for the extension of the existing Force Majeure Event**

In our original Force Majeure Event notice of 26 March 2020, we noted that the Commonwealth and State Governments had introduced a number of restrictions in response to COVID. Currently, NSW has a number of restrictions in place under section 7 of the Public Health Act 2010 and Victoria remains under its State of Emergency declaration issued by its Minister for Health in 2020.

We also noted that RSPs including Telstra had introduced specific COVID related policies around visiting customer premises. Further, we advised that we were receiving advice that end-users themselves are cancelling appointments or preventing field-staff from entering their premises, due to their own understandable concerns for COVID-19, and we are currently receiving similar feedback regarding end-users in NSW and Victoria.

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. The term "Force Majeure Event" is defined in the Migration Plan and includes any act



or omission (including laws, regulations) of any government or government agency and also labour disturbances (that are not confined to employees of Telstra or nbn co).

**Overview of further managed disconnection deferrals recently introduced for premises in NSW and Victoria**

On 3 September 2021, we advised Wholesale Customers of a pause on managed disconnection activities for all premises with remaining active legacy services in NSW and Victoria where the Rollout Region has either passed its Disconnection Date (**DD**) (and disconnection has not yet occurred) or the DD is approaching in the near future.

The arrangements are based upon the current pause on managed disconnections activity expiring on 31 October 2021, and then allowing a period of 15 Business Days (**BD**) prior to recommencing Service Disconnections activities.

Recent deferrals advised to Wholesale Customers:

Wave	Impacted Disconnection Milestone	Previous Planned Commencement of Service Disconnections	Current Revised Planned Commencement of Service Disconnections
Wave 79 (DD 15-Jan-21)	DD + 150 BD	20-Aug 21	23-Nov-21
Wave 80 (DD 12-Feb-21)	DD + 150 BD	16-Sep-21	
Wave 81 (DD 26-Feb-21)	DD + 150 BD	1-Oct-21	
Wave 82 (DD 12-Mar-21)	DD + 150 BD	15-Oct-21	
Wave 83 (DD 9-Apr-21)	DD + 90 BD	16-Aug-21	
Wave 83 (DD 9-Apr-21)	DD + 150 BD	11-Nov-21	
Wave 84 (DD 14-May-21)	DD + 90 BD	20-Sep-21	
Wave 85 (DD 11-Jun-21)	DD + 90 BD	20-Oct-21	
Wave 86 (DD 9-Jul-21)	DD + 30 BD	20-Aug-21	
Wave 86 (DD 9-Jul-21)	DD + 90 BD	17-Nov-21	
Wave 87 (DD 13-Aug-21)	DD + 30 BD	27-Sep-21	
Wave 88 (DD 10-Sep-21)	DD + 30 BD	26-Oct-21	
Wave 89 (DD 8-Oct-21)	DD + 30 BD	22-Nov-21	

These above arrangements also include Serviceable Complex Ready to Connect premises and Newly Serviceable Premises, whose disconnection milestone would otherwise apply during the pause period.

It is important to note that voluntary (i.e. end-user driven) legacy service disconnection activity will continue to occur where (i) end-user sentiment regarding nbn-migration is not impacted and/or (ii) on-premise activities to facilitate disconnection and associated nbn-migration activity are not required.

Wholesale Customers have been advised that Soft Dial Tone will not be applied by Telstra Wholesale to the above cohort of impacted premises where the obligation to complete had not already passed at the time of our announcement on 3 September 2021. Wholesale Customers still seeking to utilise temporary suspensions as a prompt for their end-users to take action can request Soft Dial Tone be applied through our LOLO ordering system. Accordingly, our Telstra Retail Business Units will similarly be able to choose to apply (or not apply) Soft Dial Tone at their discretion.



## Status of managed disconnection deferrals previously introduced in the 2020 calendar year

As noted above, the last of the deferred managed disconnection arrangements introduced during the 2020 calendar year recently concluded. These arrangements concluded with the passing of the following milestones:

Final Cohort Impacted	Revised Arrangements Previously Introduced	Deferrals Concluded with Revised Service Disconnection Milestone Having Passed:
Wave 75 (DD 14-Aug-21)	Aligned to Wave 78 (DD 13-Nov-20)	30 June 2021 (associated with any Phase 2 In-Train Order Premises)
Registered Nursing Homes and Aged Care facilities with DDs up to up to and including Wave 78 (DD 13-Nov-2020)	80 BDs from lifting of the moratorium on managed disconnection announced on 22 April 2021	13 August 2021

### Next Steps

Our response to managed disconnection activity in the face of the uncertainty and risk created by the COVID-19 situation will continue to be monitored. We will continue to provide you with updates of any material developments in our approach as decisions are reached together with nbn co. 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 me or Kim Hilton-Cowie ([Kim.Hilton-Cowie@team.telstra.com](mailto:Kim.Hilton-Cowie@team.telstra.com)).

Yours sincerely

Iain Little  
Director of Equivalence  
Sustainability External Affairs & Legal  
[iain.little@team.telstra.com](mailto:iain.little@team.telstra.com)