



6 February 2020

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Australian Competition and Consumer Commission  
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Dear Mr Wright,

**Update on Telstra's performance being affected by a Force Majeure Event under Telstra's Migration Plan**

This letter provides an update on our response to the New South Wales (NSW) and Queensland bushfires and serves to notify the ACCC that Telstra considers the bushfires in Victoria and South Australia also constitute a Force Majeure Event which could prevent or delay Telstra from performing its obligations under the Migration Plan. It also provides an update on Telstra's exit of the CustomNet Spectrum product under Required Measure 5B.

*Deferral of managed disconnection activities in response to bushfires*

I refer to our notification letter of 11 December 2019 and to your response of 18 December 2019. Telstra appreciates the ACCC's consideration and acceptance of our notification outlining our intention to treat the NSW and Queensland bushfires as a Force Majeure Event in accordance with clause 4.5 of the Migration Plan. As explained in our December 2019 notification letter, with the NSW and Queensland bushfires seemingly under control, we provided an update to Wholesale Customers that the suspension was being lifted, other than for a select group of postcodes which remained affected by bushfires. As part of this notification, Telstra advised that for premises which were no longer subject to the suspension, we would recommence managed disconnection activities in 40 business days. This timeframe was to allow any final customer migration activities to occur prior to disconnection taking place.

However, in view of the ongoing bushfires, on 8 January 2020 Telstra and nbn co agreed to continue deferral of managed disconnection activities at those protected postcodes in bushfire affected areas (per above) and to also expand this set of protected postcodes for additional areas. In addition to any postcodes directly affected by bushfires (in NSW, South Australia, Victoria and the Australian Capital Territory), the expanded set of protected postcodes include all regional areas of New South Wales, Victoria and the Australian Capital Territory. Further, the expanded set of protected postcodes also includes certain metropolitan postcodes within urban fringe areas that are directly impacted by the bushfires. Wholesale Customers were notified of this decision on 9 January 2020.



Telstra and nbn co have also agreed to defer the Disconnection Dates in the expanded set of protected postcodes until after the next five Disconnection Dates (17 January to 10 April 2020), resulting in a new Disconnection Date of 10 July 2020. Wholesale Customers were advised of this decision on 17 January 2020.

In turn, we have proactively updated our Disconnection Schedule as published on Telstra Wholesale's website to reflect the deferral of the Disconnection Dates to 10 July 2020 for those applicable Rollout Regions associated with the protected postcodes.

We would welcome the ACCC's further consideration and acceptance as to whether the updated arrangements described above continue to align with clause 4.5 of the Migration Plan in respect of a Force Majeure Event.

#### *Deferral of CustomNet Spectrum disconnections in association with product exit*

Telstra also decided not to proceed with mandatory disconnection of the remaining CustomNet services in the protected postcodes on 31 January 2020. This decision was made to protect existing lines of communication for affected customers and to minimise risks to front-line staff. At this point we have extended disconnection of these services until 31 March 2020.

In addition to deferring commencement of compulsory disconnection in the protected postcodes, we have agreed to extend use of CustomNet Spectrum services until 31 March 2020 for six customers, for whom the continued availability of these services are of critical safety importance to their operations (either in relation to the general public or to their employees). This short extension is to ensure their replacement services are working as expected before disconnection of the CustomNet services. Some (but not all) of these services are also located in the protected postcodes.

We have made these decisions in accordance with clause 11.1(c) of Required Measure 5B which provides that Telstra 'may defer commencement of disconnection of a Special Service or Special Service Input in a Covered Access Service Family beyond the Final Sunset Exit Date if Telstra, acting reasonably and in accordance with the objectives in clause 2.1(d) and (e) of the Plan, considers this is required to minimise disruption to the supply of fixed-line carriage services in accordance with the objective in clause 2.1(b) of the Plan'.

#### *Closing comments*

Our response to managed disconnection activity in the face of bushfire risk has necessarily evolved as the bushfire threat changed. We will continue to provide you with updates for any further material change to our approach and, in accordance with clause 4.5(c)(ii) of the Migration Plan, will notify the ACCC when the Force Majeure Event has ceased to affect our obligations under the Migration Plan.

Should you have any queries please contact Peter Walsh on (03) 8694 3854.

Yours sincerely

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