

26 March 2020

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Dear Mr Wright,

Notification of Telstra's performance being affected by a Force Majeure Event under Telstra's Migration Plan

On 18 March 2020, Telstra and nbn co agreed to implement a moratorium on managed disconnection activities nationally across Australia until at least 30 June 2020 (the Moratorium). This followed the ongoing developments related to the COVID-19 pandemic, given its potential effect on the service continuity objective, and the risks to the health and safety of end-users, our front-line employees and front-line employees of other RSPs (involved with nbn migration and legacy service disconnection activities).

To date the Federal Government has issued various updates and advices on matters around the size of public gatherings, necessary hygiene related precautions (e.g. 'social distancing') and international travel. All states and territory governments have implemented their own measures, including the governments of Victoria, Tasmania and the ACT each declaring a state of emergency and the Northern Territory and South Australia each declaring a public health emergency.

Telstra has implemented precautionary practices that will prevent our field staff from entering premises in the event an end-user is 'self-isolating' due to COVID-19. Further, we are 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.

We have also received feedback from RSPs (including Telstra Retail) advising the COVID-19 situation is having significant effects upon the way their labour force needs to be managed, including working from home arrangements and travel restrictions that have impacts both domestically and internationally (e.g. customer contact centres in the Philippines and India).

In these circumstances, RSPs have advised they would prefer to be able divert their resources toward supporting their customers on existing services (either on the nbn or legacy network) rather than also have to manage the impacts associated with managed disconnections.

On 19 March 2020, Telstra notified our Wholesale Customers (and Retail BU on an equivalent basis) of this precautionary decision to apply the Moratorium with immediate effect, until at

least 30 June 2020. We advised the Moratorium will apply to all premises with remaining active legacy services at a national level where the rollout region has either recently passed its disconnection date (and disconnection has not yet occurred) or the disconnection date is approaching in the near future.

For clarification, the Moratorium will also apply to all Special Services at premises subject to an upcoming managed disconnection milestone in near future, including Special Services subject to a Special Service Disconnection Date (e.g. SS In Train Order Premises and Deemed SS ITOPs subject to the 30 September 2019 Special Service Disconnection Date under Required Measure 5(D)), Changed Technology SS Premises and Delayed Notification SS Premises.

At this time, we will continue to provide active service data to Wholesale Customers and Retail BU at the usual milestones, in respect of existing and upcoming Disconnection Dates, so they retain visibility of the status of their end customers with remaining active services. Further, we will continue to keep our Wholesale Customers and Retail BU updated with respect to the developments with the Moratorium. In turn, individual RSPs are responsible for how they communicate with their end-customers. Specifically, in relation to Retail BU's communications with its end-customers with remaining active services, we note that the sending of notifications regarding upcoming Disconnection Dates have been suspended until further decisions are advised to them about the revised managed disconnection arrangements. This includes the sending of mandatory notifications to Retail customers that was due to be provided in respect of the upcoming Disconnection Date on 10 July 2020 (i.e. DD-3mth notice). This decision taken by our Retail BU reflects their current customer related priorities, together with internal resource considerations, as opposed to attempting to forecast disconnection arrangements that will apply beyond 30 June 2020.

Due to the speed and scale in which the impacts of the COVID-19 have unfolded globally, there is significant uncertainty as to when those impacts will cease to have an effect on our Migration Plan obligations. Whilst Telstra and nbn co have commenced initial discussions to develop a detailed proposal for the revised arrangements that could apply to premises in rollout regions impacted, it is not possible at this time to advise when these arrangements will be finalised. As soon as a proposal has been developed, we will provide these details to the ACCC. We note this may include circumstances where managed disconnections should still proceed where it presents positive customer outcomes.

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 full set of Force Majeure Events is set out in the Migration Plan and includes any act or omission (including laws, regulations) of any government or government agency and also for labour disturbances (that are not confined to employees of Telstra or nbn co).

In the circumstances outlined above, Telstra considers the current impacts of the COVID-19 pandemic constitutes a Force Majeure Event which could prevent or delay Telstra from performing its obligations under the Migration Plan with respect to affected premises, until such time as its impacts are sufficiently mitigated (and it is appropriate for our Migration Plan obligations to recommence). This letter therefore provides you with notification under clause 4.5(c)(i) of the Migration Plan.

As we have not developed a proposal with nbn co as to how to recommence managed disconnections at this current time, we are not yet able to advise all the obligations under the Migration Plan likely to be impacted. The obligations we expect will be impacted include our standard managed disconnection obligations as per clauses 14 and 15, together with Required Measures 2 and 3. Other supporting obligations will likely include the Disconnection

Schedule as per clause 7, the provisioning of notifications to Wholesale Customers and Retail customers, as per clause 8 and Required Measure 2 and also the requirement per clause 21 to apply Soft Dial Tone after Disconnection Date where practicable. Obligations relating to the disconnection of Special Services under the Required Measure 5s together with clause 22 will also likely be impacted (to the extent services currently remain active under these rules). We potentially may also need to review existing service restriction obligations per clause 13 (order stability period), clause 17 (cease sale) and clause 19 (temporary reconnection). The intention would be to only review these service restriction obligations where Telstra and nbn co both agree, facilitating access to telecommunications services in the circumstance are of critical importance and nbn is currently not available (or cannot be arranged in the timeframe required).

Downstream impacts to a pre-existing Force Majeure Event relating to the Bushfires

Following notifications provided to the ACCC on 11 December 2020 and again on 6 February 2020, Telstra has a pre-existing Force Majeure Event under the Migration Plan in relation to the Bushfire events of November 2019 through January 2020. In accordance with clause 4.5(c)(ii) of the Migration Plan, Telstra had been planning to notify the ACCC when the Force Majeure Event has ceased to affect our obligations under the Migration Plan.

Telstra had agreed revised disconnection arrangements with nbn co, which in turn have been communicated to Wholesale Customers, whereby managed disconnections would proceed for all premises within the protected postcodes.

In summary, these managed disconnections arrangements would have applied Premises in Bushfire Protected Postcodes as follows:

1. Region-based Disconnection Dates scheduled to occur post 1 January 2020:

The Disconnection Dates for those Rollout Regions associated with the Protected Postcodes, were moved to a single Disconnection Date of 10 July 2020. This impacted 5 disconnection waves commencing with 17 January 2020 through to 10 April 2020. Standard managed disconnection arrangements would then apply following this new Disconnection Date.

2. Region-based Disconnection Dates scheduled to occur prior to 31 December 2019:

During February 2020, Telstra and nbn co assessed that the risks pertaining to these protected postcodes have reduced to the extent there is no restriction on our field staff being able to enter and attend premises and exchanges or may do so with caution. Accordingly, the decision was taken to lift the suspension of managed disconnection activity commencing from Monday 2 March 2020, whereby RSPs would have 40 Business Days until 30 April 2020 before the service disconnection step needed to complete for impacted premises.

In respect of the above managed disconnection arrangements developed in response to the Bushfire related Force Majeure Event notification, it's highly likely our ability to successfully implement these arrangements will now be impacted by the Moratorium.

We therefore propose that the Telstra's obligations to notify the ACCC as to when the Bushfire related Force Majeure Event has ceased to affect our obligations under the Migration Plan, have now been assumed under new notification obligations that will come in force for this COVID-19 Force Majeure Event.

Next Steps

Our response to managed disconnection activity in the face of the uncertainty and risk created by the COVID-19 situation will evolve as we (and nbn co) better understand the scale and timeframes affected. We will continue to provide you with updates for any material developments in our approach as further information becomes available and decisions are reached. This includes any additional interim arrangements to be put in place whilst the Moratorium applies. In turn, 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 (e.g. managed disconnection process has recommenced nationally).

Should you have any queries about this matter please contact me or Peter Walsh on (03) 8694 3854.

Yours sincerely



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