

TELSTRA CORPORATION LIMITED
Variation to Telstra's Migration Plan

9 May 2016

Submission in support

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Executive Summary

On 26 June 2015, the Australian Competition and Consumer Commission (**ACCC**) approved Telstra's Varied Migration Plan (**the Migration Plan**) which was updated to reflect the Government's change in policy to a Multi-Technology Mix (**MTM**) approach for the National Broadband Network (**NBN**). Since then, we have agreed with NBN Co to make additional changes to the disconnection arrangements set out in the Migration Plan, to promote service continuity for customers migrating from Telstra's fixed network to the NBN and to accommodate changes initiated by NBN Co that impact the migration of Special Services and Special Service Inputs to the NBN.

The purpose of this submission is to: (1) explain the two substantive variations that we propose be made to the Migration Plan and the reasons why they should be approved by the ACCC; (2) set out the proposed minor variations which update some drafting in the Migration Plan and incorporate new reporting requirements agreed with the ACCC; and (3) set out the measures in respect of which Telstra has previously received regulatory forbearance from the ACCC, and which are now being documented in the Migration Plan for completeness.

Revised arrangements for In-Train Orders and the disconnection of Direct Special Services and Special Inputs

The two more substantive changes we are proposing to make in the variations to the Migration Plan are:

1. Implementing changes to the disconnection rules for Direct Special Services (**SS**) and Special Service Inputs (**SSI**), following NBN Co's decision to issue MTM technology-specific White Papers, where the SS and SSI are subject to an NBN Co White Paper which Telstra has either not disputed, or it has disputed but has not been successful in the Independent Assessor's determination (**Accepted White Paper**); and
2. Implementing a new arrangement for the disconnection of In-Train Order Premises for the period 1 July 2016 to 30 June 2018 that builds on the interim arrangements that have already been in place.

These variations facilitate the migration of SS and SSI to the NBN in a timely manner, and promote greater certainty for industry and a better end-user experience for customers who are seeking to migrate to the NBN before mandatory disconnection occurs. The ACCC has indicated that it intends to proceed to industry consultation upon those two variations.

These variations should be approved by the ACCC because they are consistent with the Migration Plan Principles (**MPPs**). In particular, the proposed changes are consistent with MPP 18, which sets out the requirements for Telstra's disconnection regime for SS and are also consistent with MPP 12, concerning the disconnection of In Train Order Premises. More generally, the proposed amendments promote service continuity and improve the migration process for end-users transitioning to the NBN while maintaining the momentum for the efficient disconnection of services from Telstra's legacy networks, thereby achieving the Government's objective of the structural separation of Telstra. For these reasons, we believe the variations are an improvement on the disconnection arrangements that might otherwise apply, and therefore should be approved by the ACCC. Further details on these variations and why they should be approved are set out in Section A.

Minor drafting changes and incorporating new agreed reporting requirements

The minor variations that are proposed include some drafting corrections to the Migration Plan and the incorporation of new reporting requirements agreed with the ACCC, by:

1. changing the definition of a “*Service Area Module*” (**SAM**) to align with the revised Definitive Agreements by increasing the maximum number of Premises in a SAM from 4,000 to 5,000;
2. updating Clause 26.1 to reflect revised Quarterly reporting obligations agreed with the ACCC and to consolidate in one clause the reporting requirements previously contained in each of the recently accepted replacement Required Measures 1 to 4 (as previously indicated during the consultation on those Required Measures); and
3. correcting the explanatory note in Clause 13.1 to clarify that the Order Stability Period also applies to broadband services on the HFC Network to align with the substantive clause.

These minor variations are further explained in Section B.

Documentation of measures which have already received regulatory forbearance from the ACCC

As requested by the ACCC, we are proposing to formally document in the Migration Plan the following three measures which are subject to regulatory forbearance granted by the ACCC and which we have already implemented to promote service continuity for customers migrating to the NBN:

1. The 2nd interim arrangement for In-Train Order Premises that applies to 30 June 2016, which continued the broadened concept of what constitutes an In Train Order Premises and allowed additional time before the mandatory disconnection of In-Train Order Premises;
2. The arrangement to extend the timeframe for disconnecting certain Service Class 0 (**SC0**) Premises in Service Continuity Regions with a Disconnection Date occurring during February 2016 through to October 2016;
3. The extension of the Disconnection Date that applies to certain Premises in existing Fibre-to-the-Premises (**FTTP**) NBN Rollout Regions where NBN Co has advised that the Premises will now be serviced by Fibre-to-the-Basement (**FTTB**) technology and where the Disconnection Date (**DD**) for those Premises occurs on or before 9 September 2016; and

These forbearance arrangements are set out in more detail in Section C. We note that a number of these arrangements have been implemented now for some time and are now generally understood by industry, and we consider that these arrangements appear to be working well. In particular, we note that since the introduction of the various interim arrangements for In Train Order Premises, we have seen a general trend in earlier migration of these Premises to the NBN. We continue to encourage the early migration of all services to the NBN in order to avoid the potential disruption to services that can occur by mandatory disconnection.

As these matters have been subject to forbearance by the ACCC, inclusion of these matters in the Migration Plan variation is for completeness and can be treated as a variation of a minor nature which the ACCC can approve under section 577BF(5) without consultation.

SECTION A – CHANGES TO SPECIAL SERVICES DISCONNECTION ARRANGEMENTS AND IN-TRAIN ORDER PREMISES

Background - The Regulatory Framework

The ACCC must accept a variation to a final Migration Plan if the ACCC is satisfied that the variation complies with the Varied Migration Plan Principles contained in the Telecommunications (Migration Plan Principles) Determination 2015 (**MPPs**).

The two main variations proposed to the Migration Plan for which we seek ACCC approval are:

1. Changes to the disconnection rules for Special Services and Special Service Inputs which are largely driven by the changes to NBN Co's White Paper Process; and
2. Changes to the definition of In-Train Order Premises and the rules that will apply to the disconnection of these Premises from 1 July 2016 until 30 June 2018.

We consider that these changes will provide industry with improved opportunity to smoothly migrate customers to the NBN as well as much greater certainty regarding the disconnection of services. Consequently, we believe these variations should be approved by the ACCC because they are consistent with the MPPs, promote service continuity and improve the migration process for end-users transitioning to the NBN while maintaining the momentum towards disconnection of services from the legacy networks and the structural separation of Telstra.

1. Special Services

The current framework

Direct Special Services (**SS**) are generally business services, such as ISDN, data transmission and remote telemetry. The list of SS is set out in Schedule 4 of the Migration Plan. SS and corresponding services certified by Wholesale Customers as being used to supply Special Service Inputs (**SSI**) will be disconnected during the course of the NBN rollout on a different timetable to the disconnection process used for standard voice and broadband services. This approach was adopted to allow for additional time in which NBN Co and Retail Service Providers (**RSPs**) could develop product solutions to enable substitute products to be supplied over the NBN. As a result, the Migration Plan sets out two ways in which SS and SSI will proceed to disconnection from the copper network:

- as part of Telstra's business-as-usual product exit process; or
- as NBN Co develops wholesale services as part of its White Paper Process, where those wholesale services enable RSPs to supply equivalent substitute services on the NBN.

The changes proposed to the Migration Plan relate to the second of these disconnection regimes – the NBN White Paper process.

NBN Co's White Paper Process

From time to time, NBN Co may commercially release additional wholesale product functionality relevant to one or more classes of SS by the publication of a White Paper. The White Paper outlines how NBN Co believes the NBN can be used by RSPs to provide equivalent services to the SS (and corresponding SSI) within the relevant class of Special Services.

Under the existing provisions of the Migration Plan, if there is an Accepted White Paper, disconnection of services within the SS Class will proceed. A Disconnection Date for that SS Class will be set – the SS Disconnection Date (**SSDD**). The SSDD is calculated as 36 months from the publication of the White Paper if Telstra does not dispute it, or either 35 or 34 months after the Independent Assessor's determination accepting the White Paper as supporting equivalent services to the SS Class on the NBN, depending upon the circumstances. Any SS/SSI that are at Premises that are in NBN Rollout Regions with a Disconnection Date prior to the SSDD will proceed to disconnection at the SSDD. Those SS/SSI at Premises that are in an NBN Rollout Region with a Disconnection Date after the SSDD will proceed to disconnection according to the timeline for disconnection for that Rollout Region. This ensures RSPs have close to three years to plan the migration of their customers' services to the NBN before mandatory disconnection occurs.

NBN Co's White Paper Process – Now Access Technology Specific

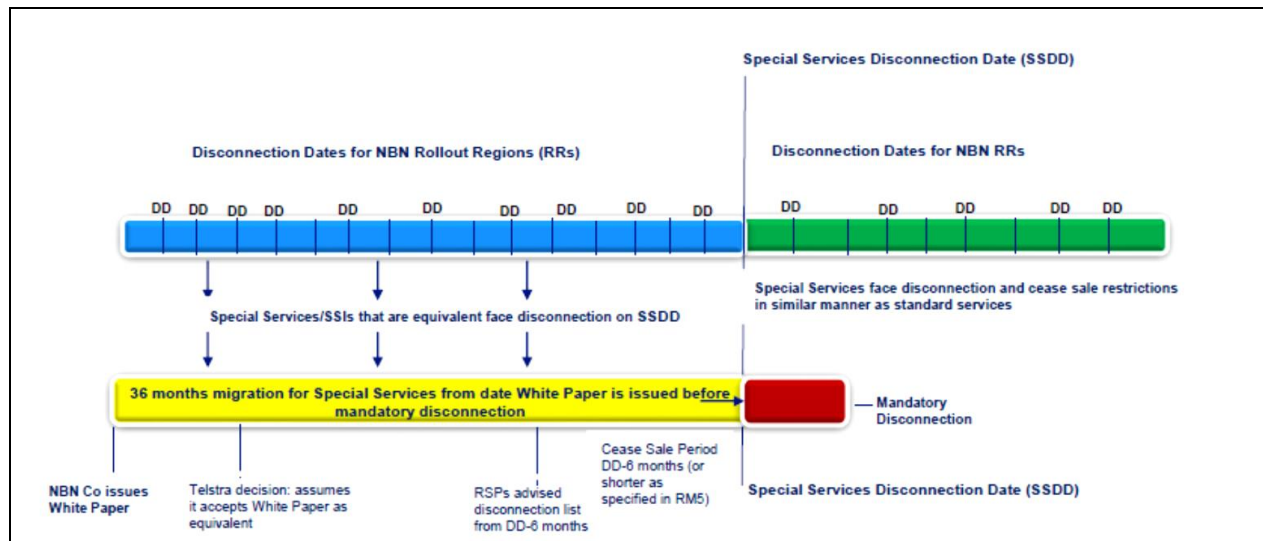
The general timeline and approach to disconnecting SS/SSI following the White Paper process will not change as a result of the proposed variation to the Migration Plan. However, the proposed variation to the Migration Plan is a consequence of the fact that now, whether a SS/SSI will proceed to disconnection will depend upon two factors:

- As per the existing regime, the SS/SSI must be in a SS class that is equivalent to the services NBN Co proposes can be supplied on the NBN using the wholesale service described in the White Paper (although the SS Class will now be known as an "Access Service Family"); and
- The SS/SSI must be supplied at a Premises that is proposed to be serviced by NBN Co with the same NBN Access Technology (AT) as that covered by the wholesale service described in the White Paper (this is a new requirement and will define what "SS Class" the SS/SSI falls into).

The additional requirement for determining whether a SS/SSI will proceed to disconnection reflects NBN Co's new MTM technology-specific White Paper process, where product development may proceed on a technology-by-technology basis, reflecting the new MTM approach to the NBN. This means that the same SS supplied on the Copper Network (that is, where there is no difference between the services supplied by Telstra to its retail customers or a Wholesale Customer) may now fall into different SS Classes (and have different Disconnection Dates) because of the AT NBN Co proposes to use to make each Premises NBN Serviceable.

For example, NBN Co may issue a White Paper that proposes an NBN Service that can be used by RSPs to provide services equivalent to certain SS/SSI using FTTP, FTTN or FTTB technologies, but not using the HFC technology. In that case, if the White Paper is not disputed by Telstra or an Independent Assessor decides that the services described in the White Paper support equivalent services, the SS/SSI described in Schedule 4 of the Migration Plan as being within an Access Service Family that corresponds to that NBN service will proceed to disconnection only if the particular SS/SSI within that Access Service Family are at Premises that NBN Co proposes to service using FTTP, FTTN or FTTB technologies. SS/SSI at Premises that will be serviced by other technologies (for example, HFC) will not proceed to disconnection at that time. The process and timeline is illustrated in Figure 1 below.

Figure 1: Disconnection timeline for Special Services and Special Service Inputs which NBN Co proposes to connect to the NBN using the Same Technology at the Premises as included in an Accepted White Paper



The proposed variation redefines the concepts of an SS Class in the Migration Plan to provide for the fact that the SS/SSI is now also defined by the AT to be utilised. In particular, the term “Access Service” in Schedule 4 is redefined as the “Access Service Family” and the “SS Class”, is a sub-category that is AT specific. For example, Ethernet Lite BDSL, which is currently an Access Service listed in Schedule 4, has been redefined as an “Access Service Family” and each of its AT forms (FTTP, FTTB, HFC and FTTN) will be listed as an SS Class.

This change has no bearing on the process by which wholesale customers certify the use of the unconditioned local loop service (**ULLS**) as a SSI because the certification that is already provided will automatically apply at the “Access Service Family” level. Consequently, Wholesale Customers will not have to conduct additional certifications of SSI which have already been certified and the certification will simply transfer from applying to an “Access Service” to an “Access Service Family”.

As Figure 1 demonstrates, the SS/SSI that are within an SS Class that is the subject of an Accepted White Paper and which are at Premises that NBN Co proposed to connect to the NBN using the same AT as that included in the White Paper will be scheduled for disconnection at the later of:

- The SSDD (which is 36 months after the date of publication of the White Paper or either 34 or 35 months after the Independent Assessor’s determination accepting the White Paper as supporting equivalent services, depending on the circumstances) for those SS within an NBN Rollout Region that has a DD prior to the SSDD; or
- The relevant DD applicable to their NBN Rollout Region.

NBN Co will advise industry of the AT proposed to be used to connect a Premises to the NBN in advance of the Ready for Service (**RFS**) Date. When matched with the Rollout Region DDs and the SSDD published on the Telstra Wholesale website, RSPs will be able to determine which of their SS/SSI will be subject to disconnection, and the applicable disconnection date.

Telstra will also confirm with its wholesale customers and Telstra Retail the list of SS/SSI in a Rollout Region and SS Class level to be disconnected from six months before the relevant disconnection date (i.e. the SSDD or the Rollout Region DD, where the Rollout Region DD occurs after the SSDD) as per current arrangements.

In accordance with Clause 22.17 of the Migration Plan, if the ACCC approves this proposed variation by 23 June 2016, the NBN Co paper titled *Temporary Special Services White Paper: Ethernet-Lite and Wholesale BDSL on the nbn Ethernet Bitstream Service* published on 30 September 2015 shall be deemed to be a White Paper and the SSDD for the SS Classes covered by this White Paper will be 12 November 2018. If the ACCC does not approve this proposed variation by 23 June 2016, then Telstra and NBN Co will commence commercial discussions and advise industry of the outcomes of those discussions, including the relevant status of NBN Co's paper of 30 September 2015 and whether any Special Services Disconnection Date applies to Special Services and Special Service Inputs that are of a SS Class which corresponds to that set out in the paper.

New Cease Sale Arrangements for Special Services/Special Service Inputs eligible for disconnection

With respect to Cease Sale, the Migration Plan currently allows Telstra to take orders for new SS/SSI that are supplied at Premises which are scheduled for disconnection throughout the SS/SSI migration window, up to the SSDD, in contrast to general services, which are subject to Cease Sale in Rollout Regions.

The absence of a Cease Sale requirement raises two concerns. First, RSPs do not have an incentive to migrate their customers to alternative services early, potentially contributing to a bottleneck of services requiring disconnection at the SSDD, and increased potential for service disruption for customers. Second, supplying a new SS/SSI close to the SSDD can lead to a poor customer experience, as customers may either not have the ordered SS or SSI activated prior to SSDD or face disconnection within a short period of acquiring a new service, resulting in an increased number of services requiring disconnection, and an increased potential for service disruption and unnecessary costs in supplying services for only a short period of time. This is particularly the case given the longer timeframes usually associated with the supply of SS. Consequently, we propose to alter the Cease Sale date that applies to SS/SSI that are facing disconnection to be the later of either:

- 1) 6 months before the SSDD (or such shorter period as may be specified in the applicable Required Measure 5) for SS/SSI that will face mandatory disconnection from the SSDD; and
- 2) Rollout Region RFS+10BD for SS/SSI that face disconnection after the SSDD, consistent with the application of Cease Sale for other services within the Rollout Region.

As per current Cease Sale arrangements for standard Services, Cease Sale will not apply where the Premises at which the SS/SSI is proposed to be supplied is not NBN serviceable.

We believe these proposed new Cease Sale arrangements will allow stability in the list of SS/SSI facing disconnection before the SSDD, while having minimal adverse impact on RSPs. As the SSDD is 36 months after NBN Co publishes an Accepted White Paper and the proposed change is to apply Cease Sale six months before the SSDD, industry can have confidence that there would be minimal risk of leaving customers without access to an alternative service as there would still be ample time (around 30 months) for industry to develop their retail service offerings, and to establish their processes for migrating customers.

Should there be a need to alter the cease sale commencement date for any reason, Telstra can do so through the Required Measure 5 process (if a shorter cease sale period is proposed), or through a subsequent variation to the Migration Plan, if the proposed six month Cease Sale date proved too short.

We believe this proposal strikes the right balance between assisting in the stabilisation of the disconnection list in the lead up to SSDD, while affording RSPs and customers sufficient opportunity to migrate to an alternative service in a way that promotes service continuity.

For similar reasons, Telstra also proposes that an Order Stability Period mirroring the OSP which applies in Rollout Regions also should apply immediately prior to the SSDD.

What if NBN Co Changes the AT to a Premises at which a SS/SSI is located?

NBN Co may decide to change the AT that it uses to supply services to a Premises at any time. When it does so, it will advise industry and Telstra of the change and the new AT that will be used to make that Premises serviceable. We are mindful that the flexibility NBN Co has to change the AT at a Premises can impact customers: for example, it can result in a SS/SSI that was not previously subject to disconnection now proceeding to disconnection, or vice versa, as well as impacting the timeframe for disconnection.

Table 1 below sets out the proposed process and timelines for disconnecting SS/SSI where NBN Co notifies of a change in the AT used to make the Premises serviceable. The general rule with this approach is that where NBN Co advises of a change in AT at a Premises at which an SS/SSI is supplied after the date which is six months before the relevant DD for the Rollout Region in which that Premises is located, disconnection will occur no earlier than 12 months after NBN Co notifies us of the change in the AT.

Table 1: Special Services at Premises That Change to An Access Technology in an Accepted White Paper

When NBN Co notifies Telstra and Industry of a change in Access Technology at a Premises at which an SS/SSI is located (which means it will face disconnection)		
<i>If Telstra is notified of a change in the Access Technology ...</i>	<i>...and the SSDD of the new Access Technology</i>	<i>...then mandatory disconnection occurs from ...</i>
Before DD-6	Has already been set	the later of (a) SSDD of the new AT and (b) Premises RRDD
Between DD-6 and RRDD	Is before RRDD	45BD after the first occurring RR DD that is at least 12 months after the Premises RRDD.
	Is after RRDD	the later of (a) SSDD of the new AT and (b) 45BD after the first occurring RR DD that is at least 12 months after Premises RRDD.
After RRDD	Is earlier than the date that is 12 months after NBN Co's notification	The first occurring RR DD after 12 months after NBN Co notification.
	Is after the date that is 12 months after NBN Co's notification	SSDD for the new AT

For example, where NBN Co notifies a change in the AT at a Premises at which an SS/SSI is supplied after the date which is 6 months before the Rollout Region DD, Telstra will disconnect that SS/SSI at the later of either (1) the SSDD for that SS Class, or (2) by 45BD after the first-occurring Rollout Region DD that is at least 12 months after the DD for the Rollout Region in which that Premises is located.

Similarly, if NBN Co notifies a change in AT after the Rollout Region DD for the Premises has passed, and the relevant SSDD has also passed or will occur within 12 months, then disconnection will be linked to the first Rollout Region DD that is, at least 12 months after NBN Co's notification, and will occur 45BDs after that date.

If NBN Co's notification of a change in AT is earlier than 12 months before the SSDD, disconnection will still occur from the new SSDD. Similarly, we expect that the majority of changes to the AT used to supply a Premises at which a SS / SSI is supplied will occur before DD – 6 months. In these circumstances, there will be no 12 month extension, and the relevant DD for that AT will apply.

If NBN Co makes subsequent changes in the AT at the same Premises, each change will be addressed through the above mechanism.

If the notice of a change in an AT occurs earlier than 6 months prior to the relevant DD for the Rollout Region, RSPs should have sufficient lead time to make the necessary adjustments in the supply of Special Services to their customers.

The proposed Variation is consistent with the MPPs and should be approved

We note that the ACCC must approve this variation if it is consistent with the MPPs. We believe the proposed variation supports the disconnection of fixed-line carriage services to occur in a way that accords with the MPPs – particularly specific principles 18 and 22 – and therefore request the ACCC approve this change.

The proposed variation is consistent with MPP 18, as it sets out the process and timelines by which wholesale customers will be advised when Telstra intends to disconnect SS/SSI from a separating network. By accommodating the change in which NBN Co will now proceed to issue White Papers in its product development process, the variation means disconnection of SS/SSIs can proceed in a timely manner, and without requiring solutions for all AT choices at the Premises.

Given that the MTM environment involves the development of product functionality by NBN Co on a technology-specific basis, we consider that it is reasonable for Telstra to define the SS Classes by reference to the underlying AT to which a Premises will be connected. Recategorising SS Classes by the NBN AT ensures a link between the SS disconnection process and the availability of substitutes on the NBN in an MTM environment where NBN Co develops product functionality on a technology-specific basis allowing service providers to develop substitute services on these technologies). These changes in the SS Classes ensure that Telstra is not mandatorily disconnecting SS at Premises for which NBN Co has not yet confirmed the product functionality will support substitute services, thereby leaving end users without a service.

We also note that the new terminology of an "Access Service Family" and the new "SS Class" are consistent with the MPPs (because "SS Class" is not defined in the MPPs). Section 18(6) of the MPPs provides that "Telstra will develop a process or processes by which Telstra will use to manage and implement disconnection of each class of special service and special service inputs". "Special services" are defined as the fixed line carriage services specified in Schedule 1, but the definition does not refer to the services by which they are sub-classified in the table in Schedule 1. Given that the special services listed in Schedule 1 of the MPPs remain the same and the MPPs do not specify how the SS classes are to be developed or categorised, the proposed approach of splitting down SS into smaller groups for the purpose of managing an orderly disconnection process is consistent with principle 18(6) of the MPPs.

We also consider that the proposed Cease Sale date and OSP period are consistent with the MPPs given that section 18(6) provides for wide discretion in the process that Telstra must develop to "manage and implement disconnection of each class of special services". In our view, this concept is sufficiently broad to

encompass range of activities associated with an effective disconnection process, including a cease sale date and OSP period. Furthermore, these activities are consistent with the general approach promoted by the MPPs of a managed, incremental disconnection regime which allows customer interests to be appropriately identified and managed.

Specific MPP 22 requires the Migration Plan to set out a timetable for disconnecting fixed-line carriage services. The proposed variation promotes this principle by setting out a process by which Telstra can determine and publish a schedule for ceasing to supply and for disconnecting SS/SSI.

In addition, we note that general principles 10(1)(b) and 10(1)(c) respectively require that, to the extent it is in Telstra's control, disconnection occurs in way that minimises disruption to the supply of fixed-line carriage services and, to the greatest extent practicable, gives a wholesale customer autonomy over certain decisions, including timing of disconnection. By maintaining the overall timeline for the migration of SS/SSI, the proposed variation provides acquirers of SS/SSI with sufficient opportunity to migrate what are generally business services characterised by higher levels of complexity. This should provide the industry with confidence that there will be appropriate time allocated to develop retail product solutions on new ATs and migrate customers in way which promotes service continuity and minimises disruption.

In addition to promoting the service continuity and a better end-user migration experience, this variation is needed to facilitate the migration of SS/SSI in order to achieve the Government's policy of the structural separation of Telstra, by allowing the disconnection of these services in response to the new NBN Co White Paper process.

2. Arrangements for In-Train Order Premises from 1 July 2016 to 30 June 2018

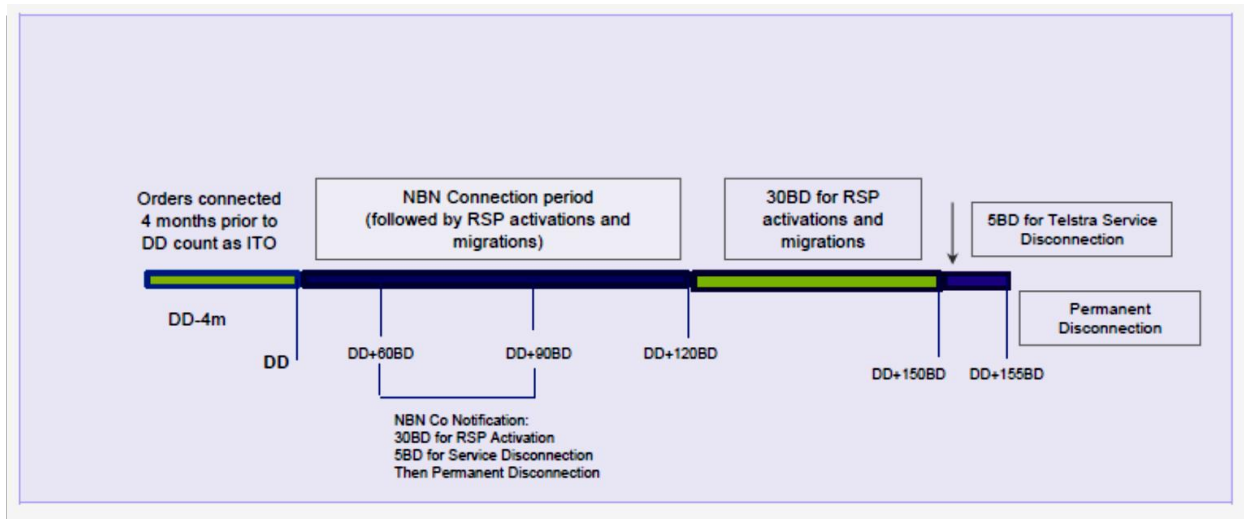
Since the Migration Plan commenced operation, there have been concerns that customers who had placed an order to migrate their services to the NBN may face disconnection of their Copper services before their NBN services have an opportunity to be connected. This has been of particularly significant concern in the early stages of NBN migration with delays in serviceability and potentially long connection timeframes on the NBN while ordering and connection processes on the NBN were still settling.

In response to these concerns, Telstra and NBN Co agreed to interim arrangements that broadened the definition of In-Train Order (ITO) Premises. These arrangements apply until 30 June 2016. Industry feedback regarding these arrangements has been supportive; as they have provided end users and RSPs with additional time in which to migrate customer services and have led to positive customer experiences.

Following further feedback from industry, we have built on those interim arrangements to propose a new transitional regime to apply for two years from 1 July 2016. These new arrangements seek to promote service continuity for end-users by further widening the scope of Premises that can be classified as ITO Premises (and therefore obtain the benefit of additional time to connect their services to the NBN before mandatory disconnection occurs) but also balances this with the introduction of two new test points within the ITO migration window to promote the timely disconnection of Premises where orders for NBN ITOs at a Premises have been connected or cancelled.

Set out below in Figure 2 is a diagram which outlines the ITO Premises disconnection timeline that is proposed to apply for two years from 1 July 2016.

Figure 2: Proposed Arrangement for In-Train Order Premises from 1 July 2016 to 30 June 2018



As noted, the proposed arrangements adopt key measures already in place in the interim arrangements that have applied to date, and build upon those following feedback from industry and our own disconnection experience. In particular:

- the definition of “ITO Premises” has been extended to include those Premises which are NBN Connected and have an Order placed with NBN Co within four months before and 25 Business Days after the Disconnection Date (DD) for the Rollout Region in which the Premises is located. This is substantially longer than the one month timeframe specified in the Migration Plan, and is

also one-month longer than the three-months currently applied in the existing interim arrangements. This has the benefit of allowing more Premises to be captured as ITO Premises which receive the benefit of additional time before facing mandatory disconnection of their services on the Copper network.

- ITO Premises also will include Premises which were already connected but then had an order for an additional NBN Service placed during this four month and 25 Business Days period; and
- For those Premises that are not disconnected at the test points at DD+60BD and DD+90BD described below, Telstra will continue to provide RSPs with the additional 30 BD before commencing mandatory disconnection of services at Premises that remain on Telstra's network at the end of the ITO migration window (i.e. at DD+120BDs). This allows RSPs up to DD+150BD to migrate and activate their customers' services on the NBN. This additional time balances providing RSPs with a longer opportunity to complete retail orders with the need to maintain integrity in the disconnections process to achieve the objective of structural separation and allow disconnections to proceed smoothly when NBN migrations are occurring at scale. Overall, this arrangement provides up to an additional six months to RSPs to migrate their customers after the DD, which will assist in promoting service continuity for customers migrating to the NBN.

Telstra recognises that, without additional safeguards, this additional time could heighten the risk of losing momentum towards disconnection, and a poor customer experience if a significant volume of services remain on the network when mandatory disconnection occurs. This is why we propose these two additional test points at DD+60BDs and DD+90BDs in the revised ITO arrangement, which will serve as a trigger for disconnecting Premises which NBN Co advises are NBN Connected, and where all orders for an NBN wholesale service at the Premises have either been NBN connected or cancelled.

At each of these test points, once NBN Co notifies Telstra that the Premises are NBN Connected and all orders have been either completed or cancelled, Telstra will advise its wholesale customers and its Retail Business Unit of the Premises to be disconnected. RSPs will then have a final opportunity to complete the connection of their end-users and their migration to the NBN before Telstra proceeds to disconnect the Premises from 30 BDs after the relevant test point.

It is expected that this will be a marked improvement on the arrangement currently intended to come into effect from 1 July 2016. For example:

- Industry has the certainty of knowing that there are only two points during the ITO migration window at which NBN Co will notify Telstra and disconnection will occur, rather than multiple notices occurring at any time throughout the ITO migration window. RSPs will be therefore able to prioritise their customers' NBN connections and promote continuity of their customers' services; and
- As RSPs will have had the benefit of at least 60 BD after the Disconnection Date to connect their customers before the first disconnection activity occurs, we believe these arrangements will allow a positive customer experience, while ensuring prompt disconnection of services on the legacy networks to achieve the Migration Plan objectives.

Importantly, the introduction of these two test-points mean that RSPs will be incented to maintain the momentum in migrating their customers to the NBN promptly, rather than allowing a backlog of migrations to

occur closer to, or after, DD+120BDs. This helps ensure disconnection occurs in a timely manner, while also promoting continuity of service for customers to migrate.

These arrangements are proposed to operate for two years from 1 July 2016. The two year term provides the industry with stability and certainty of the arrangements that will apply, while also allowing an opportunity for the arrangements to be revisited once more experience is obtained with FTTN and FTTB migrations.

If approved, the proposed new ITO arrangements would apply to Premises within the NBN rollout regions with a DD disconnection Date after 1 July 2016. (The first scheduled DD after 1 July is 8 July 2016.)

From July 2018, the ITO arrangements will revert to the ongoing ITO arrangements already in the Migration Plan, on the basis that NBN Co and the industry will have had a further two years in which to evolve processes to satisfy those ongoing ITO arrangements.

Varied Migration Plan Principles

We believe the proposed variation supports the disconnection of fixed-line carriage services to occur in a way that promotes the MPPs – particularly general principle 10 and specific principles 18 and 22.

General principles 10(1)(b) and 10(1)(c) respectively require that, to the extent it is in Telstra's control, disconnection occurs in way that minimises disruption to the supply of fixed-line carriage services and, to the greatest extent practicable, gives a wholesale customer autonomy over certain decisions, including timing of disconnection. The proposed variation is designed to provide RSPs with improved opportunity to migrate their customers to the NBN whilst still allowing disconnection as reasonably practicable after DD+120BDs. Also, as these are interim arrangements, the extension of the ITO definition in the MPPs is only on a temporary basis and introduced in a way that promotes service continuity for those customers wanting to migrate, which is consistent with previous interim arrangements that have been approved by the ACCC.

Specific principle 22 provides that the Migration Plan set out a timetable for disconnecting fixed-line carriage services. The proposed variation promotes this principle by setting out a process by which Telstra can devise and publish a schedule for disconnecting what were ITO Premises.

Post variation, the requirement of the Migration Plan will still be to manage ITO Premises in the manner set out in the MPPs from July 2018 and, as these interim arrangements are directed at working towards and facilitating those ongoing ITO arrangements, the interim arrangements are, in our view, consistent with the MPPs. Overall, the proposed variation should provide the industry with confidence that there will be appropriate time to migrate customers in way which promotes service continuity and minimises disruption.

SECTION B – MINOR VARIATIONS

The three minor variations that are proposed to update the Migration Plan to correct drafting and new reporting requirements are:

1. a change to align the definition of a “*service area module*” with the revised Definitive Agreements by increasing the maximum number of Premises in a SAM from 4,000 to 5,000;
2. updating Clause 26.1 to reflect new Quarterly reporting obligations agreed with the ACCC to better reflect disconnection milestones and to consolidate in one clause the reporting requirements previously contained in clause 26 and each of replacement Required Measures 1 to 4 (inclusive); and
3. updating the explanatory note in Clause 13.1 to clarify that the Order Stability Period also applies to broadband services on the HFC Network, to align with the note with the substantive clause.

1. Change to the definition of a *Service Area Module* to align the Migration Plan with the Definitive Agreements

The revised Definitive Agreements between Telstra and NBN Co dated 14 December 2014 redefined the term “Service Area Module” (**SAM**) by increasing the maximum number of Premises contained in a SAM from 4,000 to a maximum of 5,000. While this has been operationalised, the Migration Plan continues to refer to 4,000 Premises. Consequently, we propose to align the definition in the Migration Plan with that in the Definitive Agreements to minimise the risk of confusion.

2. Update to the Reporting Framework

We have amended Clause 26.1 of the Migration Plan to reflect the new confidential Quarterly reporting arrangements agreed with the ACCC. The changes to clause 26:

- update the original reporting requirements to ensure the Quarterly reporting reflects the key disconnection milestones in place following the changes to the disconnection process accepted in June 2015;
- Streamline the reporting by allowing reporting based on customer disconnection waves, rather than individual NBN Rollout Regions; and
- Consolidate the reporting obligations previously contained in each of the Required Measures into this clause, for greater transparency of the obligations.

The reporting arrangements have already been discussed and agreed with the ACCC, and are reflected in our existing reporting.

3. Order Stability Period

We have corrected the Explanatory Note in clause 13.1 to reflect that the Order Stability Period applies to Telstra’s HFC network, not just the copper network. This is already clear from the substantive provisions in clause 13.

Varied Migration Plan Principles

We believe the proposed variation is consistent with the MPPs and therefore are pleased to submit this variation to the ACCC for approval.

SECTION C – VARIATIONS IMPLEMENTED AND ALREADY SUBJECT TO REGULATORY FORBEARANCE

This section sets out three matters in the proposed variation which have already been the subject of ACCC forbearance. These matters are:

- extending the first interim arrangement for In-Train Orders until 30 June 2016;
- extending the disconnection timeframe for Service Class 0 Premises for waves with a DD occurring between February and October 2016; and
- extending the disconnection time frame for FTTB Premises within NBN Rollout Regions with a DD on or prior to 9 September 2016 that are notified by NBN Co to Telstra as having changed their NBN technology from FTTP to FTTB; and

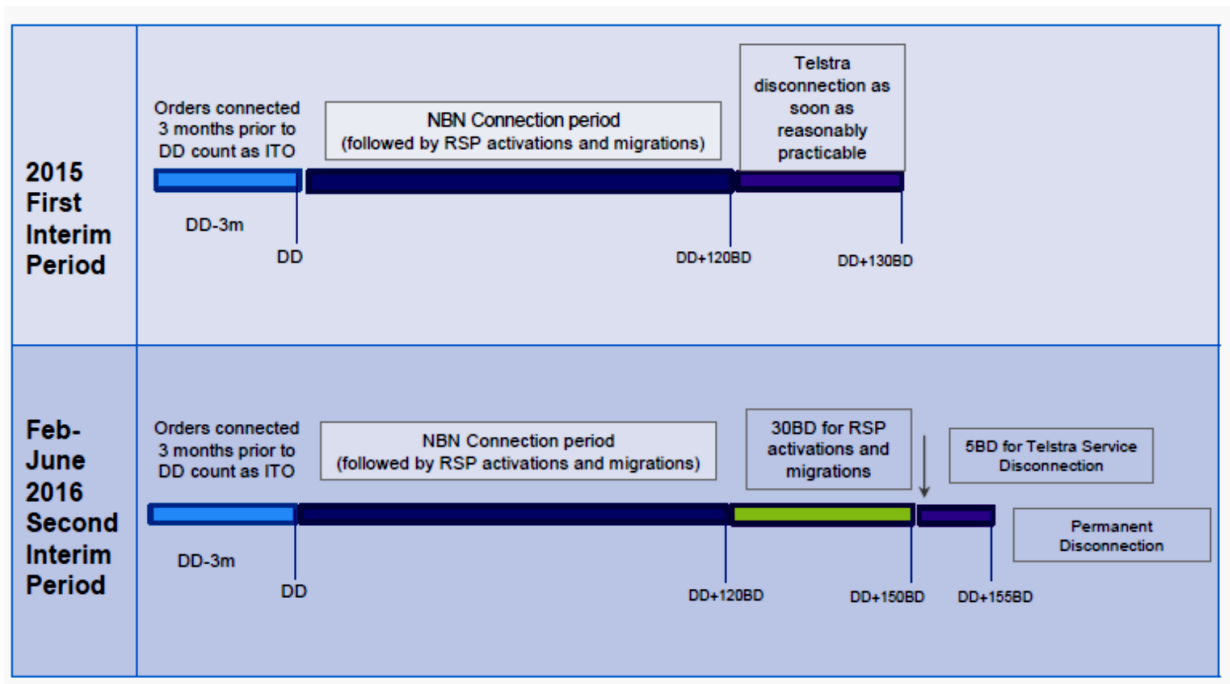
These forbearances were requested to support industry in developing its practices to adapt to the operational challenges of early migration to the NBN. Other than the new arrangements proposed for ITO Premises above, it is not currently expected that additional changes will be required to address these issues on a longer-term basis.

Inclusion of these amendments in the Migration Plan is for completeness. As forbearance has already been granted by the ACCC, the incremental impact of their inclusion is limited as Telstra is not afforded any significant benefit or change compared to the situation which applied by reason of the forbearance. Industry is already proceeding with disconnection in accordance with the processes approved by the ACCC in the forbearance decisions. Accordingly, Telstra believes that these changes constitute variations of a minor nature within the meaning of section 577BF(5) and that accordingly, the ACCC is not required to consult on these proposed amendments.

1. Extension of the first interim (2015) arrangement for In-Train Orders until 30 June 2016 – Clause [15.1]

The purpose of this change is to document the extension of the first interim arrangement for the migration of In-Train Order (ITO) Premises which is the subject of forbearance, and which is also currently in force. The varied Migration Plan approved by the ACCC on 26 June 2015 contains some transitional arrangements for ITO Premises that apply to Premises located in Rollout Regions with a Disconnection Date (DD) falling in the 2015 calendar year. These changes formed part of a set of broader changes to the processes around the DD for Premises in a Rollout Region, which were designed to promote service continuity and an improved migration experience for end-users in the early stages of the NBN migration. The varied Migration Plan now includes the extension of those arrangements to 30 June 2016. These are described in Figure 3 below.

Figure 3: First and Second Interim Arrangements for In-Train Orders



Concerns had been raised that the original Migration Plan afforded insufficient opportunity to fully migrate customers to the NBN where they had placed NBN orders late in the migration window before they faced mandatory disconnection in the early stages of the NBN migration. Two areas where Telstra considered changes could be made to improve the customer experience were identified: the definition of ITO Premises that included Premises that were NBN Connected within only one month of the DD; and the practice that Telstra disconnected Premises within 10 BD of the end of the ITO migration window (i.e. from DD+120BD to DD+130 BD).

Consequently, Telstra and NBN Co agreed to modify the arrangements for ITO Premises for a limited period of time by expanding the concept of an “In-Train Order Premises” to include Premises which have become NBN Connected within three months (instead of one month) before the DD for the Rollout Region in which the Premises is located. Premises matching this new expanded definition would then be allowed to remain on our network up to 120 BD after the DD Date before managed disconnection commenced (rather than requiring these ITO Premises to be disconnected within 30 BD from the date that Telstra is notified by NBN Co that the ITO Premises has been connected to the NBN). These arrangements were put in place during 2015, and were due to expire on 31 December 2015. Consequently, we advised the ACCC of our proposal to extend the arrangements until 30 June 2016. The ACCC agreed to provide forbearance for the further six-month period on 2 December 2015.

Subsequently, an additional change was made to the disconnection timeframe whereby Telstra would not mandatorily disconnect services from DD+120 BD, but would only do so from DD+150 BD. We advised the ACCC of our revised arrangement in a letter dated 1 February 2016. Forbearance was granted on 2 February 2016.

The amendment to the Varied Migration Plan documents the changes that apply to ITO Premises from February to 1 July 2016.

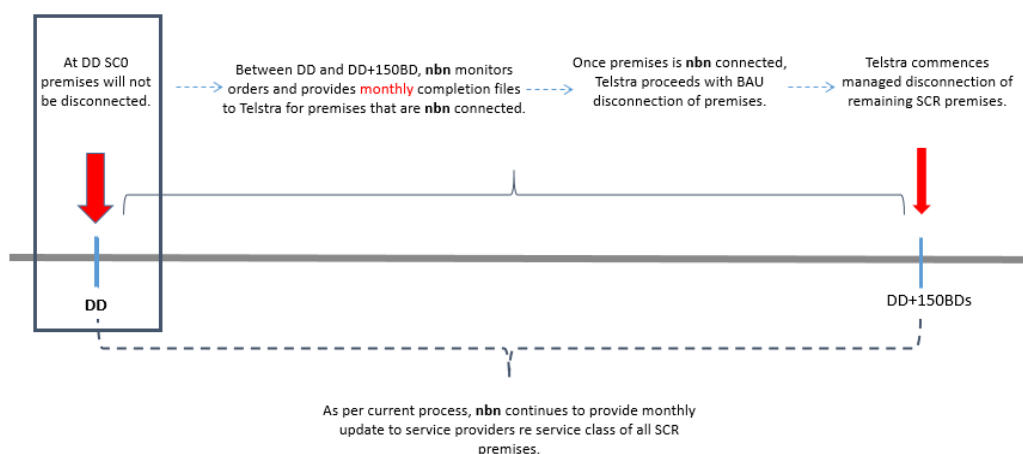
2. Interim Arrangement for Premises that are Service Class 0 at 3 months before the Disconnection Date of a Service Continuity Region with a Disconnection Date in February to October 2016

In response to industry concerns with late NBN serviceability of some remaining Service Class 0 (SC0) Premises within a limited number of Service Continuity Regions, Telstra agreed with NBN Co to extend the timeframe for implementing managed disconnection of Premises with active Copper or HFC services that remained SC0 at three months before the DD for their Service Continuity Region. The extension applies for those disconnection waves with a DD occurring in February 2016 to October 2016 only. The relevant Premises eligible for the extension are identifiable in NBN Co's service qualification system as being not NBN Serviceable.

This extension of time for SC0 Premises in these Rollout Regions is equivalent to the extended timeframe allowed for disconnecting ITO Premises, whereby Premises are not subject to managed disconnection prior to DD + 150 Business Days. This provides NBN Co, RSPs and their customers with considerably more time in which to connect customers' NBN services to the NBN before disconnection occurs.

Figure 4: Extended Disconnection Arrangement for Premises that are Service Class 0 at 3 months before the Disconnection Date of a Service Continuity Region with a Disconnection Date in February to October 2016

Extended disconnection timeframes for SC0s notified to Telstra



We advised the ACCC of our proposed extension in a letter dated 19 February 2016 and they agreed to provide forbearance on 22 February 2016. The varied Migration Plan now documents the arrangement which has already been implemented and approved.

The changes to the managed disconnection timeframe for these Premises have been communicated to industry, including NBN Co agreeing to advise when the SC0 Premises become serviceable and are able to be migrated to the NBN. We are encouraging NBN Co to ensure the prompt serviceability of these Premises.

3. FTTP to FTTB Premises in FTTP Rollout Regions (February to September 2016)

As part of its change to a Multi-Technology-Mix (**MTM**) NBN, NBN Co is able to change the Access Technology (**AT**) that applies to each Premises within an NBN Rollout Region. With the introduction of the MTM NBN, NBN Co proceeded to change the AT for some Premises within existing NBN Rollout Regions from Fibre-to-the-Premises (FTTP) to Fibre-to-the-Basement (FTTB). This meant that there were some Premises that were close to their DD, that now were to be made serviceable using a relatively new NBN AT, resulting in challenges for RSPs to have sufficient time to develop new FTTB solutions and migrate their customers to those solutions before disconnection occurred.

Consequently, Telstra and NBN Co agreed to extend the DD that will apply to all FTTB Premises within NBN Rollout Regions with a DD on or prior to 9 September 2016 that are notified by NBN Co to Telstra as having changed their NBN technology from FTTP to FTTB. These FTTB Premises will now have a DD of 23 September 2016.

We advised the ACCC of our proposed approach to the mandatory disconnection of these services in a letter dated 22 February 2016, which the ACCC has published on its website.

Conclusion

The amendments set out in this submission introduce a number of important refinements to the Migration Plan which reflect our ongoing operational experience with the migration process to date. This variation to the Migration Plan will facilitate the objectives of the MPPs: to provide for an efficient and timely disconnection of services from Telstra's separating networks, equivalence in the disconnection process between Telstra's retail and wholesale customers, and reasonable regulatory certainty for Telstra. Telstra is therefore pleased to submit the Varied Migration Plan to the ACCC for approval under section 577BF(2) of the Telecommunications Act.