



Submission to ACCC

Variation to Telstra's Migration Plan

September 2018

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### **Introduction**

The Alliance for Competition in Digital Communications (**Commpete**) welcomes the opportunity to make this submission to the Australian Competition and Consumer Commission (**ACCC**) in response to the *Telstra's Migration Plan Variation Proposal September 2018*. Commpete will also submit a separate Telstra proposal that would see "special services" effectively excluded from NBN and remain only available via Telstra, be that wholesale or retail.

### **Proposed Variation to Migration Plan**

The first proposal seeks to push back the special services mandatory disconnection date by 10 weeks. This would avoid mandatory disconnections happening at the start of the Christmas holiday period and potentially conflicting with Carrier/RSP change embargos over the period. Commpete supports this proposal.

The second proposal is to push back the mandatory disconnection date for special services. This would apply where a service order is with an RSP and "in train" to migrate to an NBN service. Despite having significant lead time to migrate, some customers are not yet ready, often due to complicated legacy equipment that is not compatible with NBN service types. It is likely that some customers will not be ready on time for the mandatory disconnection date. In the interest of service continuity, Commpete accepts this proposal.

### **Consultation with Wholesale Customers, the ACCC and NBN Co**

We refer to a document on the Telstra Wholesale website "Consultation with Wholesale Customers, the ACCC and NBN Co on proposed network agnostic in-train order arrangements for Special Services"

[https://www.telstrawholesale.com.au/content/dam/tw/Documents/Submission-TelstraRM5Consultation-September-2018-Final.pdf?elq\\_mid=1080&elq\\_cid=3608](https://www.telstrawholesale.com.au/content/dam/tw/Documents/Submission-TelstraRM5Consultation-September-2018-Final.pdf?elq_mid=1080&elq_cid=3608)

This proposal seeks to push back the mandatory disconnection date for special services where an "in train" order is in place to migrate to a provider other than NBN. This allows Telstra additional time to build and roll out new non NBN access technologies to these customers and leaves these services wholly under the control of Telstra. Commpete believes this will reduce NBN's "level playing field" and is not in line with NBN policy and the principle of structural separation.

If this were allowed to occur this will provide Telstra with the ability to manoeuvre into a position where it returns to a monopoly position in relation to special services, and permanently exclude them from NBN. In doing so they can continue to leverage the ownership advantage and deny customers access to obtain these services through alternative RSPs.

Included in the “special services” are several DSL service types. Pushing back mandatory disconnection for these services will have the knock-on effect of prolonging coexistence in areas where these special services exist. This will prolong difficulties suffered by customers who have already migrated to NBN VDS technologies and are suffering degraded/sub-optimal services as a result.

Allowing Telstra additional time to migrate services to NBN is a different proposition to allowing Telstra additional time to migrate customers onto another of its own networks. Commpete is concerned this proposal will result in Telstra retaining dominance over customers and denying RSPs access to these services via NBN.

## **Conclusion**

Commpete supports both the proposal to push back special services mandatory disconnection until after the 2018 holiday/change embargo period and the proposal to delay mandatory disconnection of special services where an order is “in train” to be migrated to an NBN service.

Commpete firmly rejects Telstra’s proposal to allow delayed mandatory disconnection of special services where a service order is “in train” to be migrated to a non NBN service, such as a Telstra to Telstra migration. Commpete submits this proposal should be rejected outright as it is inconsistent with NBN’s policy and principles of structural separation and a level playing field.

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