



Australian
Competition &
Consumer
Commission

Telstra's proposal to vary the Migration Plan

Discussion Paper

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1 Introduction

The Australian Competition and Consumer Commission (ACCC) is seeking feedback from interested parties on Telstra's proposed variation to the Migration Plan.

The existing Migration Plan, which reflects the shift to a multi-technology mix (MTM) National Broadband Network (NBN), was approved by the ACCC in June 2015. It sets out the steps that Telstra will take to progressively migrate voice and broadband services from its copper and hybrid-fibre coaxial (HFC) networks to the NBN as it is rolled out across Australia. Further details on Telstra's Migration Plan can be found on the ACCC [website](#).

On 9 May 2016 Telstra submitted a proposed variation to the Migration Plan to the ACCC comprising proposed changes to:

- expand the definition and disconnection timeframe for In-Train Order premises to give a greater number of premises more time before mandatory disconnection¹
- amend the regime for disconnecting Direct Special Services and Special Service Inputs to accommodate NBN Co's release of additional wholesale product functionality by Access Technology
- incorporate interim arrangements that are already subject to ACCC forbearance and
- correct minor errors and incorporate new reporting requirements agreed with the ACCC.

The ACCC's role in assessing the Migration Plan is to ensure that it is consistent with the Migration Plan Principles. As part of this assessment, the ACCC is required to publicly consult on these changes for 28 days. After considering any submissions received, the ACCC will decide whether to approve or refuse to approve Telstra's proposed variation as required under the *Telecommunications Act 1997*. The ACCC will publish its decision on the ACCC website.

The ACCC's consideration of the proposed variation to the Migration Plan is limited to whether or not the Migration Plan, as varied, complies with the *Telecommunications (Migration Plan Principles) Determination 2015* (the Migration Plan Principles).

If the ACCC is satisfied that the Migration Plan as varied complies with the Migration Plan Principles, it must approve the variation. The ACCC can only refuse a variation requested by Telstra if the variation is not consistent with the Migration Plan Principles.²

¹ In-Train Orders premises are premises which can stay connected past the Disconnection Date in a region for a limited period.

² Section 577BF of the *Telecommunications Act 1997*

If the ACCC approves the varied Migration Plan its provisions will be treated as provisions of the Structural Separation Undertaking (SSU) that is in force under subsection 577BE(5) of the *Telecommunications Act 1997*. This means that a breach of the Migration Plan becomes enforceable as a breach of the SSU.

Migration Plan Principles

The Migration Plan Principles define the objectives and scope of the Migration Plan, and prescribe the way in which the Migration Plan must deal with certain issues.

In assessing the proposal, the ACCC will consider the proposed variation against the general principles and any relevant specific or procedural principles in the Migration Plan Principles. The general principles relate to the overarching objectives of the Migration Plan and the specific principles specify how certain processes will be executed by Telstra in very prescriptive detail.

The Migration Plan Principles incorporate the following four general principles:

- ensuring the efficient and timely disconnection of carriage services from the separating network
- minimising disruption to the supply of services to the extent that it is in Telstra's control
- giving wholesale customers autonomy over decisions associated with disconnection to the greatest extent practicable and
- providing for wholesale services to be disconnected in an equivalent manner to retail services to the greatest extent practicable.³

Where a specific or procedural principle relates to a matter, the ACCC must take a variation to the Migration Plan as complying with the Migration Plan Principles, including the general principles, in respect of that matter if and to the extent that the varied Migration Plan complies with that specific or procedural principle. Where a variation to the Migration Plan does not accord directly with a specific or procedural principle, or where the variation is not dealt with by a specific or procedural principle, the ACCC will consider the proposed variation against all of the principles, including the general principles.⁴

2 Consultation process

The ACCC is seeking feedback from interested parties by way of written submissions on Telstra's proposed variation to the Migration Plan. Submissions may address the specific questions raised in this discussion paper, as well as any other relevant competition and consumer issues arising from the proposed variation.

³ Clause 10 Migration Plan Principles.

⁴ Clause 8(2) Migration Plan Principles.

To assist stakeholders in making a submission, this discussion paper outlines:

- developments since the revised Migration Plan was approved by the ACCC in June 2015
- the existing arrangements that are proposed to be varied
- the proposed variations and reasons provided by Telstra as to why these are necessary and
- questions to guide interested parties' submissions.

Interested parties should provide submissions by no later than 5pm on 20 June 2016. The ACCC may be limited in its ability to fully consider submissions received after the deadline.

Responses may be emailed to ssu-migration@acc.gov.au with the title: *Submission re: proposed variation to the Migration Plan*. We would appreciate electronic copies of submissions in either Adobe PDF or Microsoft Word format that is text searchable.

For enquiries regarding this discussion paper, please contact:

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Confidentiality of submissions

To facilitate an informed and open consultation, the ACCC will treat all submissions as public and publish them on the ACCC website. If interested parties wish to submit commercial-in-confidence material to the ACCC, they should submit both a public and commercial-in-confidence version of their submission. In the confidential version, confidential material should be clearly identified and marked as confidential. In the public version, confidential material should be redacted and replaced with an appropriate symbol or '[c-i-c]'.

It is the ACCC's preference that as much material is disclosed in the public version as possible.

3 Developments since the revised Migration Plan was approved by the ACCC

On 26 June 2015 the ACCC approved the revised Migration Plan submitted by Telstra, which incorporated changes to reflect the move to a MTM rollout model adopted by NBN Co. Since the approval of the MTM variations to the Migration Plan, Telstra and NBN Co have gained further experience in migrating customers to the NBN and are seeking to incorporate these learnings into the Migration Plan.

The MTM variations to the Migration Plan were approved with the understanding that the In-Train Order provisions would likely need adjustment once the parties had further experience in migrating customers to the NBN. Telstra and NBN Co have

been working towards finalising arrangements for the treatment of In-Train Order premises to apply until 1 July 2018.

Extended disconnection timeframes

Following the approval of the MTM variation to the Migration Plan, Telstra and NBN Co identified aspects of the Migration Plan where additional flexibility was needed to ensure service continuity for end users. Telstra approached the ACCC seeking regulatory forbearance to depart from its obligations under the Migration Plan by proposing extended disconnection timeframes for the following:

- In-Train Orders premises
- fire alarms and lift phone services
- Service Class 0 premises and
- some fibre to the basement premises.

The ACCC did not object to Telstra's requests to implement these revised arrangements on the basis that they are consistent with the Migration Plan Principles and provide greater service continuity for end users. The ACCC's consent was given with the expectation that Telstra would proceed to incorporate these changes in a formal variation to the Migration Plan.

Replacement Required Measures 1, 2, 3 and 4

The revised Migration Plan obliged Telstra to develop and publish replacement Required Measures to reflect revised processes associated with the transition to a MTM NBN rollout.

Following consultation, the ACCC notified Telstra on 17 February 2016 that it considered the replacement Required Measures complied with the Migration Plan Principles and did not object to Telstra publishing them.

The replacement Required Measures form part of Telstra's Migration Plan. Telstra's proposed variation to the Migration Plan incorporates replacement Required Measures 1 and 4 in Schedule 7, and replacement Required Measures 2 and 3 in Schedule 3.

Importantly, replacement Required Measure 2 includes modified disconnection arrangements for fire alarm and lift phone services. In particular, premises will be exempt from disconnection until after 30 June 2017 if they are notified to Telstra by NBN Co by the Disconnection Date as having a copper service that is being used to supply a fire alarm or lift phone service and are registered with NBN Co.

The ACCC strongly encourages all interested parties to ensure prompt registration of fire alarm and lift phone services with NBN Co.

Further information on the replacement Required Measures can be found [here](#).

NBN Special Services White Papers

On 30 September 2015 NBN Co released a [White Paper](#) setting out how the NBN Ethernet Bitstream Service can be used to supply services similar to the Wholesale

BDSL/Ethernet Lite Special Service currently supplied by Telstra (NBN TSS White Paper No 1). These services provide WAN-based connectivity between sites for the delivery of business grade access to the internet.

The NBN TSS White Paper No 1 highlights that NBN Co is adopting an Access Technology⁵ specific migration pathway for this SS Class,⁶ which means the availability of SS Equivalent Services in the same rollout region may differ depending on the NBN Access Technology used to provide them.⁷ In particular, the NBN TSS White Paper No 1 sets out the capability of NBN fibre-based Access Technologies (FTTP, FTTN and FTTB) as a suitable migration pathway for the Wholesale BDSL/Ethernet Lite Special Service, but does not cover other NBN Access Technologies, including HFC.

In early May 2016 NBN Co published a second White Paper setting out the capability of NBN Co's FTTP, FTTN and FTTB Access Technologies as a suitable pathway for the CustomNet Spectrum and ATM services on Telstra's copper network (NBN TSS White Paper No2).⁸

This technology-specific approach is inconsistent with the process envisaged for migrating Special Services under the Migration Plan.

4 Areas for inquiry – In-Train Order Premises

In-Train Order premises are premises still waiting for their order for an NBN service to be filled after the Disconnection Date. The In-Train Order provisions are designed to ensure service continuity for end users, particularly for complex premises or premises that are connected to the NBN later in the migration window.

4.1 Existing Migration Plan In-Train Order premises arrangements

Clause 15.1 of the Migration Plan contains provisions on the treatment of In-Train Order premises. Some of these arrangements were introduced as part of the MTM variations to the Migration Plan. In short, the Migration Plan provides that premises are In-Train Order premises if:

- there is an order for an NBN service at the Disconnection Date or

⁵ Access Technology (as defined in Schedule 10 of the Migration Plan) means technology used by NBN Co to connect a premises or a location to the NBN, which may include fibre to the premises (FTTP), fibre to the node (FTTN), fibre to the basement (FTTB) and hybrid fibre-coaxial cable (HFC).

⁶ SS Class (as defined in Schedule 10 of the Migration Plan) means each type of Direct Special Service identified in the "Access Service" column of Table 1 and Table 2 in Schedule 4 and each such SS Class will include each Special Service Input that is certified by a Wholesale Customer to be Service Equivalent to that type of Direct Special Service.

⁷ SS Equivalent Services (as defined in Schedule 10 of the Migration Plan) means in relation to a Special Service Class, products and services that are the same or better than the products and services that Telstra supplies to its customers by means of that Special Service Class at the same or better pricing as at the Plan Commencement Date.

⁸ <http://www.nbnco.com.au/content/dam/nbnco2/documents/TSS-Whitepaper-CustomNet-Final.pdf>
<http://www.nbnco.com.au/content/dam/nbnco2/documents/TSS-Whitepaper-ATM-Final.pdf>

- the order for the NBN service is placed within 25 Business Days of the Disconnection Date or
- if the premises becomes NBN connected within one month prior of the Disconnection Date.

The Migration Plan requires Telstra to disconnect In-Train Order premises as soon as reasonably practicable following 120 Business Days after the Disconnection Date for the relevant rollout region. The Migration Plan further requires that once NBN Co has notified Telstra that a premises is NBN connected, or that all NBN orders at that premises are cancelled, Telstra must disconnect that premises within 30 Business Days of that notification.

Transitional arrangement for 2015 in the Migration Plan

Clause 15.1(d) of the Migration Plan sets out transitional provisions that apply to premises in rollout regions with a Disconnection Date during the 2015 calendar year. The transitional arrangements:

- extend the definition of In-Train Order premises to any premises that is connected to the NBN within three months before the Disconnection Date, rather than the standard one month and
- provide that after the Disconnection Date, Telstra will not disconnect In-Train Order premises within 30 Business Days of Telstra being notified that the premises has received all of its NBN connections (rather, managed disconnection will occur 120 Business Days after the Disconnection Date).

4.2 Interim arrangements for In-Train Order premises

Since the approval of the revised Migration Plan, Telstra has sought regulatory forbearance from the ACCC to address circumstances where alternative arrangements were needed to prevent In-Train Order premises from being disconnected without an active NBN service.

The ACCC consented to the interim arrangements for In-Train Order premises because the arrangements were consistent with the Migration Plan Principles and supported service continuity for end users. The consent was granted without a formal variation to the Migration Plan on the expectation that Telstra would shortly submit a formal variation to the Migration Plan.

Extension of 2015 interim arrangements for In-Train Order premises

In December 2015 Telstra approached the ACCC seeking to extend the 2015 interim arrangement until 30 June 2016. The arrangements were otherwise scheduled to expire on 31 December 2015. Telstra considered that this would assist industry and end users in having a greater opportunity to maintain service continuity, while Telstra continued to work with NBN Co to finalise proposed long-term arrangements for In-Train Orders (to apply from 1 July 2016). Further information on this arrangement and Telstra's request for forbearance can be found [here](#).

Further interim arrangements for In-Train Order premises

In February 2016 Telstra and NBN Co proposed a new interim timeframe for disconnection by providing an additional 20 Business Days for Retail Service Providers (RSPs) to connect NBN services and migrate In-Train Order Premises before Telstra commences managed disconnection. Under the new timeframes, Telstra commences managed disconnection from the date that is 150 Business Days after the Disconnection Date.

The extended timeframe was introduced to provide RSPs with greater certainty around when Telstra will perform the service disconnection process and assist to promote service continuity in the migration of customers to the NBN. Further information on this arrangement and Telstra's request for forbearance can be found [here](#).

4.3 Telstra's proposed variation to the treatment of In-Train Order premises

Telstra's proposal for new transitional arrangements for In-Train Order premises, for the period from 1 July 2016 until 30 June 2018, broadly resembles the interim arrangements that the ACCC consented to Telstra implementing in February 2016.

The proposed arrangements provide that:

- orders connected up to four months prior to the Disconnection Date will fall within the definition of In-Train Order premises
- Telstra will provide premises up to 150 Business Days after the Disconnection Date before commencing managed disconnection (unless NBN Co notifies Telstra that the NBN order has been cancelled or completed prior to that)
- NBN Co will notify Telstra of completed or cancelled In-Train Orders at intermediate "test points" on the Disconnection Date plus 60 and 90 Business Days, and a further notification on 120 Business Days after Disconnection Date (rather than on an ad hoc basis) and
- Telstra will have 30 Business Days from the notification date to disconnect the premises⁹

Telstra considers that the proposed amendments are likely to promote greater service continuity by providing In-Train Orders more time before managed disconnection and by capturing more premises under the In-Train Order protections.¹⁰

Telstra further states that the "test points" "will serve as a trigger for disconnecting premises which NBN Co advises are NBN connected" and provide the following benefits:

- industry will have certainty that disconnections will occur on set dates

⁹ Telstra Submission in support, page 13.

¹⁰ Telstra Submission in support, page 14.

- RSPs will have the benefit of 60 Business Days after Disconnection Date before the first disconnection activity takes place and
- RSPs will have an incentive to migrate their customer to the NBN promptly, rather than allowing a backlog of migrations to occur closer to Disconnection Date plus 120 Business Days.¹¹

However, the inclusion of the proposed intermediate “test points” associated with NBN Co notifying Telstra of completed or cancelled orders at Disconnection Date plus 60, 90 and 120 Business Days may raise the risk of some services being disconnected without an active NBN service. This will depend on whether the RSP will have sufficient time to activate and test that the retail NBN service is meeting the end-user’s service requirements before Telstra proceeds to managed disconnection 30 Business Days following NBN Co including the service in a notification.

In this regard, the ACCC notes that the proposed variation makes allowances for NBN Co to notify Telstra of completed In-Train Orders after the next occurring “test point”.¹² Hence, it would appear that any such risk could be mitigated through NBN Co’s business practices as to which “test point” it will notify Telstra of completed In-Train Orders (for example, whether it could filter out recently completed In-Train Orders from services notified at the next “test point”).

ACCC Questions

1. Do the proposed arrangements for In-Train Orders promote service continuity and minimise disruption to the supply of fixed-line carriage services, to the extent that it is within Telstra’s control?
2. Can the potential risk of service discontinuity associated with the “test points” be mitigated by NBN Co?
3. Would 30 Business Days be a sufficient period for critical services, such as medical alarms, to be successfully migrated to an NBN service?
4. Telstra’s proposed new transitional regime for In-Train Orders applies for two years until 1 July 2018. Would the expiry of these arrangements be likely to lead to the re-emergence of the problems that Telstra is currently seeking to address?

5 Areas for inquiry – Special Services and Special Service Inputs

Direct Special Services and Special Service Inputs are services set out in Schedule 4 of the Migration Plan. These are generally business grade services, such as ISDN, data transmission and remote telemetry. These services are disconnected on a different timetable to the region-by-region disconnection process used for standard voice and broadband services.

The Migration Plan sets out two ways in which Special Services may become subject to disconnection:

¹¹ Telstra Submission in support, page 13.

¹² Subparagraphs 15.1A(c)(ii)(B) and 15.1A(c)(iii)(B) of Telstra’s proposed variation.

- 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 which enable RSPs to supply equivalent substitute services on the NBN.

From time to time, NBN Co may issue a commercial release of additional product functionality relevant to one or more particular SS Classes. Where NBN Co makes a SS Product Release, it will publish a White Paper that outlines how the NBN can be used to provide the SS Equivalent Services. NBN Co has so far released two White Papers and is expected to release further White Papers in the coming months.

NBN Co is proposing to amend the way it carries out SS Product Releases as a result of the MTM approach to the NBN, which will impact the way these services are disconnected by Telstra.

5.1 Existing product release and disconnection arrangements for Special Services and Special Service Inputs

The Explanatory Note under clause 22.4 of the Migration Plan provides that where NBN Co makes a SS Product Release, in relation to a particular SS Class, it will publish a White Paper outlining how the NBN can be used to provide a service equivalent to the Special Service.

The Migration Plan envisages that all services provided under a SS Class covered by a White Paper will have a single Disconnection Date for that rollout region. This date is determined once Telstra or an Independent Assessor accepts that the NBN Special Service product will support equivalent services on the NBN.

The Disconnection Date for a particular SS Class is defined under Clause 22.4(a) of the Migration Plan, which states it is either 36 months from the release of the White Paper, or 35 months after an Independent Assessor determines that the NBN can offer equivalent services.

5.2 Proposed arrangements for Special Services and Special Service Inputs

Access Technology specific approach

NBN Co is proposing to adopt an Access Technology specific migration pathway for releasing Special Services.

This approach necessitates a variation to the Migration Plan to alter the disconnection regime for Special Services as the Disconnection Date for a premises with a Special Service will now depend on two factors:

- the SS Class that is equivalent to the services NBN Co proposes can be supplied using the NBN and
- the Access Technology NBN Co uses to supply the SS Class.

As a consequence, the same Special Services supplied on Telstra’s copper network may now fall into a different SS Class and have different Disconnection Dates depending on the Access Technology NBN Co uses to supply services to a premises.

NBN Co's latest Integrated Product Roadmap¹³ sets out targeted timeframes for HFC initial product release and initial TC-2 speed tiers for HFC. Given NBN Co's current development of HFC product functionality, the Access Technology specific approach has the potential benefit of allowing NBN Co to bring forward the release of White Papers for its fibre based SS Equivalent Services. In other words, the two White Papers released by NBN Co and White Papers No. 3 and No. 4, expected to be released in the coming months, may have been delayed if NBN Co was required to release a single White Paper covering all Access Technologies in a SS Class.

Telstra considers that it is reasonable in an MTM environment to redefine the SS Classes by reference to the underlying Access Technology used at a premises. Telstra states that these changes in the SS Classes ensure that Telstra is not mandatorily disconnecting Special Services at premises for which NBN Co has not yet confirmed the product functionality to support substitute services, thereby leaving end users without a service.¹⁴

Notification prior to disconnection of Special Services

Required Measure 2 of the Migration Plan provides that where Telstra continues to supply copper services to a wholesale customer at premises in a rollout region four months before the Disconnection Date, Telstra must provide a Preliminary Disconnection List not less than three months before the Disconnection Date notifying that wholesale customer of those premises which Telstra expects to be subject to managed disconnection.

Telstra also states in its Submission-in-support that it will confirm with its wholesale and retail customers, six months before the Disconnection Date, the list of Special Services and Special Service Inputs in a rollout region which will be disconnected as per current arrangements.¹⁵ The ACCC considers that there is scope for this commitment to be incorporated in the SS Disconnection process(es) that Telstra is obliged to develop pursuant to clause 22.5 of the Migration Plan, as it would provide RSPs assurance of more notice to prepare for the disconnection of Special Services.

Changes in Access Technology by NBN Co

Under the MTM NBN, NBN Co has the ability to determine the Access Technology used to supply services to a particular premises and can change its decision on the Access Technology used at any point in the migration process.

NBN Co's ability to change the Access Technology used at a particular premises raises the risk of Special Service facing imminent disconnection in instances where NBN Co changes the Access Technology used to supply Special Service close to the Disconnection Date.

Telstra has sought to address this risk by providing that where NBN Co changes the Access Technology in relation to a premises in the six months leading up to the Rollout Region Disconnection Date that premises will be given an additional 12 months before mandatory disconnection commences.

¹³ <http://www.nbnco.com.au/content/dam/nbnco/documents/Integrated-Product-Roadmap.pdf> .

¹⁴ Telstra Submission in support, p 10.

¹⁵ Telstra Submission in support, p 8.

Double Ended Special Services

To overcome the potential for multiple Disconnection Dates applying to Double-Ended Special Services¹⁶ with ends either in different rollout regions or in different SS Classes, Telstra proposes to defer disconnection until the later of the relevant Special Services Disconnection Date or relevant Rollout Region Disconnection Date.

Cease Sale for Special Services

Telstra proposes to introduce cease sale arrangements for Special Services and Special Service Inputs. The Migration Plan currently allows Telstra to accept orders for new Special Services and Special Service Inputs up until the Special Services Disconnection Date.

Under the proposed arrangements, the cease sale obligations will apply to Special Services on the later of:

- six months before the Special Service Disconnection Date or
- the Ready for Service date plus 10 Business Days as for other services.

Telstra considers that this change is likely to provide more incentive for end users to migrate early and allows Telstra to stabilise the disconnection list, while also giving RSPs sufficient opportunity to develop their substitute products and migration processes.¹⁷ However, the new cease sale arrangements also have the potential to restrict end users from accessing suitable services in circumstances where replacement services on the NBN are not available in a timely manner.

Status of NBN TSS White Paper No1

Telstra's proposed variation provides that if the revised arrangements for Special Services come into effect on or before 23 June 2016, then NBN TSS White Paper No1 shall be deemed to be a White Paper and the White Paper Disconnection Date for the relevant SS Classes shall be deemed to be 12 November 2018.¹⁸

In addition, Telstra's proposed variation provides that if NBN Co publishes another White Paper for an SS Class prior to the revised arrangements for Special Services coming into effect then that White Paper will be deemed to have been published as a White Paper for the relevant SS Class(es). The White Paper Disconnection Date will then be calculated from the date on which the White Paper was published by NBN Co or the date applicable under clause 22.4(a)(ii) of the varied Migration Plan.¹⁹

However, Telstra's proposed variation is silent on the status of NBN TSS White Paper No1 if the ACCC does not approve the revised arrangements by 23 June 2016. Telstra states in its submission that in the event that the proposed variation is not approved by 23 June 2016, it will commence commercial discussions with NBN Co and advise industry of the outcome of those discussions, including the relevant status of this White Paper and whether any Special Services Disconnection Date applies.²⁰ Telstra

¹⁶ Double-Ended Special Services (as per the Migration Plan) are Special Services using a copper path to connect an A end Premises and a B end Premises.

¹⁷ Telstra Submission in support, page 8.

¹⁸ Proposed clause 22.17

¹⁹ This provision would apply to NBN TSS White Paper No2.

²⁰ Telstra Submission in support, page 8

has advised the ACCC that in this case it would intend to seek a further variation to the Migration Plan.

ACCC Questions:

5. Do the proposed arrangements for Special Services promote service continuity and minimise disruption to the supply of services, to the extent that it is within Telstra's control?
6. Does the proposed variation comply with Migration Plan Principle 18? In particular, does it adequately set out the process and timelines by which wholesale customers will be advised when Telstra intends to disconnect Special Services?
7. Is an additional 12 months sufficient time for RSPs to develop substitute products and establish processes to migrate Special Services Premises before managed disconnections where NBN Co changes the Access Technology in the six months leading up to the rollout region Disconnection Date?
8. Are there any scenarios where end users would not be able to acquire suitable products in the absence of Telstra copper service should the cease sale arrangements restrict the availability of the Telstra copper services?
9. Are the proposed arrangements for Special Services likely to give rise to any unintended consequences?

6 Areas for inquiry – Arrangements subject of existing ACCC forbearance

Since the approval of the Migration Plan in 2015, the ACCC has consented to Telstra's requests for additional flexibility in the following instances:

- extending the interim In-Train Order arrangements until 30 June 2016
- extending the disconnection of Service Class 0 premises with a Disconnection Date on or before 9 September 2016 and
- extending the disconnection of FTTB premises with a Disconnection Date on or before 9 September 2016, which were notified by NBN Co to Telstra as having changed their Access Technology from FTTP to FTTB.

Further details on these arrangements can be found on the [Migration Plan page](#) of the ACCC website.

Telstra notes that a number of these arrangements have been implemented for some time and are now generally understood by industry. Telstra considers that these arrangements appear to be working well and does not currently expect further changes will be required to address these issues on a longer-term basis.²¹

Telstra is proposing the inclusion of these arrangements in the Migration Plan for completeness.²²

²¹ Telstra Submission in support, page 4 and 16.

²² Telstra Submission in support, page 16.

ACCC Questions:

10. Are these interim arrangements working effectively?
11. Do stakeholders have any objections to these arrangements being formalised?

7 Areas for inquiry – Other minor changes

Telstra also proposes to use this formal variation as an opportunity to incorporate certain drafting amendments.

Telstra has proposed the following changes:

- amend the definition of Service Area Module from 4,000 to 5,000 premises to align the definition with the revised Definitive Agreements²³
- update clause 26.1 of the Migration Plan to reflect the new Quarterly reporting obligations agreed with the ACCC, which consolidate reporting from the Required Measures and
- update the explanatory note in clause 13.1 of the Migration Plan to clarify that the Order Stability Period also applies to the HFC Network.

ACCC Questions:

12. Are these minor amendments consistent with the Migration Plan Principles?
13. Does the change to the definition of Service Area Module have any implications for the service status of existing Service Area Modules which have been declared Ready for Service?

8 Next steps

The ACCC invites interested parties to make submissions on the issues raised in this discussion paper and any other issues relevant to Telstra's proposed variation to the Migration Plan.

²³ Definitive Agreements are defined in Schedule 10 of the Migration Plan, which include agreements between NBN Co, The Minister for Communication and Telstra.