



Response to the Telstra Migration Plan Variation Proposals

October 2018

Macquarie Telecom Group welcomes the opportunity to comment on the proposed changes to the Telstra Migration Plan.

In doing so, we also take the opportunity to comment on what we understand to be a separate consultation conducted by Telstra proposing changes that would have the effect of preventing the migration of some services to the NBN.

This separate consultation uses as cover the discussion about the need to extend the timeline for migration to the NBN of Special Services. However, Macquarie submits it represents a fundamental departure from the agreements and purpose underpinning the NBN.

Our Understanding of the Proposals

Macquarie understands the proposals presented by Telstra as follows.

Special Services

Special Services are generally business-grade services provided over copper (eg ISDN, business grade DSL etc). They are a category of service that was created in the context of the NBN policy in order to facilitate the migration of customers from the legacy Telstra network to the NBN. They were created because it was recognised that some of these services represented a different set of product challenges to those addressed by the NBN's initial suite of services, which were designed with the residential market in mind.

Under the Migration Plan, these services are to be disconnected on a different timeline to standard services. In particular, a delayed initial date to commence disconnection of Special Services (**SSDD**) has been set for 12 November 2018 (note that a later SSDD will apply for premises which are not in an NBN ready-for-service area).

Presently, the Migration Plan provides that disconnection must commence one (1) business day after the SSDD and be complete five (5) business days after the SSDD, with permanent disconnection completed 25 business days after the SSDD.

Proposed Variation to Migration Plan

Telstra has lodged a proposed variation to the Migration Plan with the ACCC for approval pursuant to s.577 of the Telecommunications Act (**Variation**).

The first proposal relating to Special Services in the Variation is that the same SSDD be retained, but the timeframes for disconnection be extended so that disconnection commences 52 business days after the SSDD, disconnection completes 61 business days after the SSDD, followed by permanent disconnection 87 business days after the SSDD. This is effectively an extension of approximately 10 weeks so that the whole process is delayed until the end of January, rather than taking place over the Christmas/New Year Period.

The second proposal is to introduce an "order in train" process which provides for disconnection of Special Services to be delayed where the customer has placed an order for a replacement to the Special Service with NBN (via a RSP). If such an order has been placed with NBN, the disconnection process for that premises will not commence until 170 business days after the SSDD (allowing 120 business days for NBN to complete the connection and 50 business days for the RSP to activate the connection).

Macquarie supports both of these proposals.

The first – to allow for extra time to shift the migration process out of the holiday period – is a common sense response to avoiding a foreseeable problem arising from the process coinciding with the holiday period.

The second recognises there are likely to be some customers with complicated environments and legacy communications equipment and plant that might give rise to unexpected problems.

It is unfortunate but understandable that RSPs and the NBN have not been able to already prepare all of these customers for the migration. However, maintaining continuity of service to these customers is important and this provision would provide for that outcome.

Consultation with Wholesale Customers, the ACCC and NBN Co

Separately to the Variation, Telstra has posted on its wholesale website a document entitled "Consultation with Wholesale Customers, the ACCC and NBN Co on proposed network agnostic in-train order arrangements for Special Services". In this paper, Telstra presents a completely separate proposal, and is calling for those who

support this proposed change to “express their support to both NBN Co and the ACCC, to encourage them to support Telstra giving effect to these changes”.

What is proposed in this paper is that the same extension to the disconnection date for Special Services as set out in the second proposal in the Variation also be extended to premises where an order for a replacement for the Special Service has been placed with a network provider other than NBN (ie an extension of 170 business days from the applicable SSDD). Telstra is presenting this change as being “network agnostic”.

It appears that Telstra has taken this approach of an informal consultation, rather than including this proposal in the Variation, as it is clear that such an approach is not consistent with the statutory Migration Plan Principles or the Definitive Agreements.

Macquarie is strongly opposed to this proposal.

Macquarie’s assessment of the Third Proposal

It is clear that it was always contemplated by Telstra, NBN and the Government that the Special Services would form part of the NBN footprint and that Telstra’s structural separation would require these services to be transferred to the NBN.

Essentially the Migration Plan is designed to deal with migration of services onto NBN, not to deal with migration of services from Telstra to another network (or from one Telstra access service or another).

Telstra seems to be trying to garner support from elements of the industry in order to place pressure on NBN Co and or the ACCC to agree to the proposal. Telstra does not have the ability to unilaterally implement this change.

However, Telstra’s “consultation” appears to have been highly selective.

Macquarie does not appear to have been provided with a copy of the proposal. After becoming aware that there was a third proposal, we were able to obtain a link to the proposal from a third party. The document does not appear to be searchable from Telstra’s Wholesale website, even though it resides on that website.

Macquarie submits it is one thing to give customer with complex migration problems some extra time to ensure the smooth transition to the all-new NBN. It is something altogether different to now propose these customers could be retained by Telstra on its own network.

Telstra could have migrated its business customers to new access technology any time in the past decade. It appears to be suggesting it has suddenly found its wallet and proposes to migrate customers to new access technologies. This is occurring just as Telstra faces the imminent threat of a level-playing field, all-new NBN, which would uncouple customers from its access monopoly and forever free them to

choose other retailers, unfettered by any switching costs or discriminatory terms Telstra might choose to impose on alternative retailers as the network owner.

It was Telstra history of taking advantage of its vertical integration to the detriment of competition and consumer welfare that gave rise to the NBN.

As discussed above, the category of Special Services was created wholly in relation to services migrating to the NBN. Telstra is being disingenuous in suggesting this proposal has anything to do with "competitive neutrality". It is, in our views, a deliberate, targeted attack on the NBN rollout.

Telstra's proposal should be rejected on the basis of an inadequate consultation alone. Even if this consultation were appropriately conducted, it should be rejected as being wholly inconsistent with the NBN policy, the Migrations Plan principles, and the policy of structural separation.

For further information, please contact:

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