



Australian
Competition &
Consumer
Commission

Assessment of Telstra's Resubmitted Draft Migration Plan Required Measures

- 1(a) Process for obtaining consents and releases from wholesale customers for pull through
- 1(b) Process for notifying wholesale customers of pull through exception events

Final decision

December 2013

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List of acronyms and other terms

ACCAN	Australian Communications Consumer Action Network
ACCC	Australian Competition and Consumer Commission
August 2011 Discussion Paper	<i>ACCC's Assessment of Telstra's Structural Separation Undertaking and draft Migration Plan</i> , Discussion Paper, August 2011
December Discussion Paper	<i>ACCC's Required Measures Discussion Paper</i> , December 2012
Disconnection date	(a) In respect of a Rollout Region, the date specified as the disconnection date for that Rollout Region in the Disconnection Schedule (b) In respect of all Copper Services in the Fibre Footprint within a Rollout Region that are not Special Services or Added Premises, the date published by Telstra as the disconnection date for that Rollout Region in the Disconnection Schedule; (c) In respect of Added Premises, the date determined as the disconnection date in accordance with clause 15.2 of the migration plan; (d) In respect of a Direct Special Service or Special Service Input, the disconnection date for the applicable SS Class determined in accordance with clause 21.1 of the migration plan; and (e) In respect of a Contracted Special Service, the date determined as the disconnection date under clause 21.12 of the migration plan
(the) Migration Plan Principles	<i>Telecommunications (Migration Plan Principles) Determination 2011</i>
Final Decision Paper	<i>ACCC's Assessment of Telstra's Structural Separation Undertaking and draft Migration Plan</i> , Final Decision Paper, February 2012
HFC	Hybrid Fibre-Coaxial
ITA	Independent Telecommunications Adjudicator
LIC	Lead-in-conduit
LOLS	Linx Online System
LSS	Line Sharing Service

NBN	National Broadband Network
NBN Co	NBN Co Limited
Notification event	has the meaning given in clause 10.2 of the migration plan
NTT	NBN Transition Tool (Telstra system)
Pull through Activities	has the meaning given in clause 10.1(a) of the migration plan
Pull through exception event	a circumstance that prevents Personnel from being able to complete Pull Through Activities or Cable Rectification
RSP	Retail Service Provider
Ready for Service Date	(a) In relation to an Initial Release Rollout Region or Acquired Rollout Region, the date notified by NBN Co as the Disconnection Commencement Date for that Rollout Region; and (b) In relation to any other Rollout Region, the date advised by NBN Co in a notice published on its website that Fibre Services will be able to commence to be supplied in the Rollout Region
SIIAM	Telstra's assurance system for recording customer faults
Special Services	Direct Special Services and Contracted Special Services (clause 21.12 of the migration plan)
SSU	Structural Separation Undertaking
STS	Standard Telephone Service
Telstra	Telstra Corporation Limited
ULLS	Unconditioned Local Loop Service
WBA	Wholesale Broadband Agreement

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1 Executive Summary

Required measures 1(a) and (b) specify the processes that Telstra will use to obtain consents, releases and undertakings from its wholesale customers for NBN Co to use pull through on wholesale lines (required measure 1(a)) and how Telstra will notify wholesale customers when pull through is unsuccessful (required measure 1(b)).

Telstra's most recently proposed measures (resubmitted draft required measures 1(a) and 1(b)) represent considerable improvements on the previous drafts. For example, Telstra is no longer seeking releases for the lack of operation of copper services that they are best placed to rectify. Further, Telstra has clarified that an end-user must also provide consent for NBN Co to use pull through before a wholesale customer's releases in favour of it and NBN Co come into effect. On the basis of these improvements, the ACCC is satisfied that Telstra's resubmitted draft required measure 1(a) complies with the Migration Plan Principles.

However, the ACCC considers that resubmitted draft required measure 1(b) does still not facilitate wholesale customer management of the service outage for their customers to the degree that it is reasonably in Telstra's control to do so. The ACCC also considers that draft required measure 1(b) does not provide sufficient equivalence in the timing of notification provided to Telstra's retail business units and Telstra's wholesale customers. As a result, the ACCC is not satisfied that Telstra's resubmitted draft required measure 1(b) complies with the Migration Plan Principles and has decided not to approve it.

The ACCC considers that Telstra must provide a firmer commitment and prompt timeframe in which it will notify wholesale customers in situations where pull through has been unsuccessful. Failure to notify wholesale customers in a timely manner limits their capacity to effectively respond to their customers' needs and increases the risk that consumers affected by a service outage may suffer significant adverse consequences. The ACCC considers that Telstra's commitment to provide prompt notifications will help mitigate these potentially adverse consequences. It will also ensure that, to the greatest extent practicable, Telstra wholesale customers will be in an equivalent position to Telstra's retail business units to respond to the needs of their end-user customers.

Industry has called for further clarification around NBN Co's operational processes for pull through. However, these processes are outside the scope of required measures 1(a) and 1(b). NBN Co has sought to address some of these concerns in its latest Wholesale Broadband Agreement (WBA). The ACCC welcomes this initiative and encourages NBN Co to finalise an end-to-end operational document to provide greater clarity over the rights and responsibilities of all parties involved in pull through.

2 Introduction

On 27 February 2012, the Australian Competition and Consumer Commission (ACCC) accepted Telstra's structural separation undertaking (SSU) and approved the draft migration plan. The SSU came into force on 6 March 2012 and the migration plan on 7 March 2012. Further detail on the ACCC's assessment of Telstra's SSU and migration plan can be found in the ACCC's February 2012 Final Decision Paper — Assessment of Telstra's Structural Separation Undertaking and draft Migration Plan, and in its August 2011 discussion paper. Both papers are available on the ACCC website.

2.1 Pull through required measures

Clause 5 of the migration plan requires Telstra to develop certain disconnection measures or processes after the migration plan commences and submit them to the ACCC for approval. These measures are referred to as "required measures" and comprise specific disconnection processes needed to facilitate migration to the National Broadband Network (NBN) and a plan setting out how Telstra will ensure that migration related information sourced from NBN Co under the Definitive Agreements is protected.

Pull through is a process that NBN Co may use to connect premises in the fibre to the premises (FTTP) areas of the NBN rollout. NBN Co has indicated that it does not intend to use pull through unless a fibre cable cannot otherwise be installed in the existing lead-in-conduit (LIC) from the curb to a premise. The process will involve an NBN Co contractor using an existing copper line or HFC cable to pull an NBN fibre cable through the LIC.

Pull through will result in an outage to the existing communications services until they can recommence, either over the reinstated copper line or a temporary cable installed by NBN Co. The service outage occasioned by pull through poses risks to end-users, particularly vulnerable end-users. The operational steps required for pull through could also limit the capacity of service providers to manage the migration of their end-users.

Before NBN Co can undertake pull through it must acquire consent from both the end-user and the copper service provider. The ACCC understands that, if consent is not provided, NBN Co will not undertake pull through and may choose to connect the premises using an aerial fibre drop or by installing a new LIC.

Required measure 1(a)

Under clause 10.1(c) of the migration plan Telstra has committed to inform NBN Co that a LIC is not suitable for pull through where:

- a copper line is used to supply a wholesale service and the wholesale customer has not given prior consent to pull through; and
- there is more than one copper line in the LIC over which wholesale services are being supplied and not all affected wholesale customers have given prior consent to pull through.

To meet this commitment Telstra must develop a standardised process that enables it to use reasonable endeavours to obtain this consent from wholesale customers as well as certain releases and undertakings in favour of NBN Co. Telstra has provided the consents, releases and undertakings for NBN Co to undertake pull through on its retail services under the Definitive Agreements.

This paper concerns the ACCC’s decision on whether to approve measures (referred to as “required measures” under the Migration Plan) developed by Telstra that relate to its role in a process that NBN Co will use to connect premises in fibre-to-the-premises (FTTP) areas of the NBN rollout. This connection process is referred to as “pull through” and it will result in an outage of the carriage services provided to an end-user.

Under draft required measure 1(a), Telstra proposes to obtain wholesale customer consents, releases and undertakings to pull through by way of a Deed Poll.

Required measure 1(b)

Pursuant to the Definitive Agreements, NBN Co is obliged to notify Telstra if it is prevented from completing pull through activities at a premise.

Clause 10.2 of the migration plan requires Telstra to establish a standardised process that enables it to promptly give notice to affected wholesale customers in the event that pull through is unsuccessful. In such cases, referred to as “pull through exception events”,¹ the service outage occasioned by pull through could potentially be prolonged, for example, by extreme weather events. Due to the adverse impact a prolonged service outage may have on end-users it is important that service providers be notified of pull through exception events promptly so that they can manage the consequences for their end-users as effectively as possible.

Telstra’s proposed notification process is outlined under required measure 1(b).

¹ The three most common instances of pull through exception events will result from NBN Co not being able to connect the fibre cable to the premises or failing to reinstate the line used for pull through or having to install a temporary cable.

2.2 Decision making framework for required measures

The ACCC must approve a draft required measure if it is satisfied that it complies with the *Telecommunications (Migration Plan Principles) Determination 2011* (the Migration Plan Principles).² Otherwise, the ACCC must refuse to approve the draft required measure and direct Telstra to resubmit the draft required measure amended to take into account the concerns raised by the ACCC.³ Once approved, a required measure forms part of the migration plan.⁴

If, through operational experience, a provision of the Migration Plan, including an approved required measure, is found to not comply with the general principles in the Migration Plan Principles, then the ACCC may issue a direction to Telstra to rectify the required measure to ensure that it is compliant.⁵

2.3 Previous ACCC consideration of required measures 1(a) and 1(b)

Telstra initially lodged draft required measure 1(a) with the ACCC in August 2012 and subsequently submitted draft required measure 1(b) on 30 November 2012.

On 18 December 2012, the ACCC released a discussion paper on Telstra's draft required measures 1(a) and 1(b) (the December discussion paper). This paper highlighted a number of ACCC concerns and sought feedback on whether the draft required measures complied with the Migration Plan and Migration Plan Principles.

Submissions to the December Discussion Paper closed on 1 February 2013. The ACCC received 10 submissions, including two supplementary submissions from Telstra. The December Discussion Paper and submissions to it are available on the ACCC's website.⁶

On 5 April 2013, the ACCC decided not to approve the draft required measures and issued a direction to Telstra to resubmit amended drafts that take into account the ACCC's concerns. The ACCC published a Decision Paper (the April Decision Paper) detailing these concerns as well as illustrative guidance outlining how Telstra might amend the draft required measures. The ACCC's Direction and April Decision Paper are available on the ACCC's website.⁷

² Available on the Department of Communications website at www.communications.gov.au.

³ Migration plan, clause 5.4(d).

⁴ Migration plan, clause 5.4(g).

⁵ Migration plan, clause 26(a).

⁶ <http://transition.accc.gov.au/content/index.phtml/itemId/1124798>.

⁷ <http://transition.accc.gov.au/content/index.phtml/itemId/1124798>.

On 13 August 2013, Telstra resubmitted the draft required measures for ACCC approval. The ACCC undertook public consultation on these resubmitted required measures, inviting submissions by 13 September 2013. Optus and AAPT provided submissions in response to this consultation process. These submissions are available on the ACCC's website.⁸ The ACCC has had regard to these submissions in forming its view on whether to approve the resubmitted draft required measures.

2.4 ACCC's approach to assessing the required measures

Telstra has an important role to play in helping to minimise the impact of the service outage caused by pull through. As the network operator, Telstra has responsibility for managing service outages on the copper access network. Telstra also has up to date information about which wholesale customers provide services to particular premises. Telstra is therefore best placed to provide accurate and timely advice to NBN Co as to which wholesale customers will be affected by pull through and to inform wholesale customers about any faults or outages to the existing copper based communications services they provide to their end-users.

For the ACCC to approve Telstra's required measures 1(a) and 1(b) it must be satisfied that they commit Telstra to operate in a manner that satisfies the continuity of service and equivalence objectives under section 8 and 21 of the Migration Plan Principles. This will ensure that the stages of the pull through process that Telstra is best placed to manage contribute to the realisation of a smooth migration experience for end-users, retail service providers (RSPs) and NBN Co. The other Migration Plan Principles that the ACCC considers relevant to its assessment of draft required measures 1(a) and (b) are listed in Attachment B to this Decision Paper.

In a practical sense, Telstra is already responsible for aspects of pull through outside the scope of the required measures, for example, in relation to its responsibility for fault rectification of copper based services until those services are disconnected. Telstra's continued fulfilment of these obligations will also be important to the success of the end-to-end process.

2.4.1 Concerns outside the scope of required measures 1(a) and 1(b)

The success of the end-to-end pull through process will also depend on the involvement of NBN Co, NBN retail service providers (NBN RSPs) and end-users. The ACCC has reviewed the end-to-end pull through process (as understood at the time of writing this Decision Paper), with a view to determining where there may be gaps in the assignment of rights and responsibilities between the parties involved.

⁸ <http://transition.accc.gov.au/content/index.phtml/itemId/1082236#toc6>

In its April Decision Paper, the ACCC made a number of suggestions intended to provide greater clarity around the precise nature of the roles and responsibilities that parties will likely take on in pull through. These suggestions were guided by the general principle that the party that can most efficiently manage a particular risk should be assigned responsibility for doing so. These proposals were intended to complement the processes and arrangements provided for under required measures 1(a) and 1(b).

Pull through will be a demand driven process as it will only be used by NBN Co to fulfil a connection order for a premises that could not be connected during the build drop phase of the NBN FTTP rollout. As such it is a gaining service provider led model of customer transfer, which means that the NBN RSP will often be best placed to manage the risks posed by the service outage. For example, the NBN RSP will be best placed to collect information on any special needs that an end-user may have when migrating to the NBN. Given this, the ACCC considers that connection order arrangements should enable the NBN RSP to provide a smooth migration experience for their end-users.

That said, until the end-user chooses to disconnect their existing copper services, the losing service provider can still play a role in ensuring service continuity. For example, where an end-user is churning their voice service, a losing service provider may be requested to provide call diversion services as the NBN RSP (the gaining service provider) may not be in a position to implement call diversion.

As an NBN connection process, NBN Co will be best placed to ensure that the operational processes used for pull through are fit for purpose. NBN Co will also be in the best position to ensure that lines used for pull through are reinstated or temporary cables that are capable of recommencing the supply of existing services are installed.

Chapter 6 of this Decision Paper outlines the ACCC's views on the need for appropriate contractual and operational arrangements to address aspects of pull through that are outside the scope of the required measures. An overview of the end-to-end pull through process is provided at Attachment A. Telstra's role in relation to specific stages of the end-to-end process is highlighted to contextualise what aspects of the process relate to required measures 1(a) and 1(b).

2.4.2 The impact of a change of rollout policy on incidence of pull through

As noted above, pull through will only be used by NBN Co as a "fall back" for FTTP connections – pull through will only be used where NBN Co installers have not been able to push an NBN fibre cable through a LIC. The ACCC understands that roughly five to ten per cent of premises may require pull through connections in FTTP areas. The new Government has committed to rollout a predominantly fibre-to-the-node (FTTN) network in brownfield areas. In FTTN areas, pull through may only be necessary where the existing copper lead-in does not work.

3. ACCC decision

The ACCC is satisfied that Telstra's draft required measure 1(a), as resubmitted on 13 August 2013, complies with the Migration Plan Principles.

However, the ACCC is not satisfied that Telstra's resubmitted draft required measure 1(b) complies with the Migration Plan Principles and has decided not to approve it. The ACCC's reasons for this decision are outlined under section 3.1 below and in more detail in Chapter 5 of this Decision Paper.

While relating to distinct processes, required measures 1(a) and 1(b) comprise a single required measure under Schedule 7 of the Migration Plan. Therefore, the ACCC must be satisfied that required measure 1(b) complies with the Migration Plan Principles before required measure 1 forms part of the Migration Plan.

The ACCC directs Telstra to resubmit, within 40 business days of this Direction, draft required measure 1, with draft required measure 1(b) amended to take into account the concern specified in the ACCC's decision paper.

Chapters 3 and 4 of this Decision Paper detail the ACCC's reasoning on resubmitted required measures 1(a) and 1(b) respectively. Each chapter sets out:

- Concerns raised by the ACCC in its April Decision Paper and Direction to Telstra to amend its draft required measures 1(a) and 1(b)
- Telstra's response to concerns raised by the ACCC
- Feedback from interested parties provided to the ACCC in response to Telstra's resubmitted required measures 1(a) and 1(b)
- ACCC views on the resubmitted draft required measure.

The April Decision Paper sets out the context for each required measure, and the relevant regulatory requirements under the Migration Plan Principles and the Migration Plan in greater detail.

3.1 Resubmitted draft required measure 1(b) does not comply with the Migration Plan Principles

Clause 10.2(a) of the Migration Plan states that if NBN Co notifies Telstra of a pull through exception event or the installation of a temporary cable to a premise (together "notification events") to which a wholesale customer supplies services, then:

"Telstra will promptly give notice to the affected wholesale customer of any matter notified to Telstra by NBN Co (other than to the extent that the information is confidential)"

Under clause 10.2(b) of the Migration Plan, Telstra is required to develop a required measure that establishes a standardised process that enables it to provide this notice to wholesale customers.

This process is the subject of resubmitted draft required measure 1(b).

Under resubmitted draft required measure 1(b), Telstra states that it expects, in ninety per cent of cases, to notify wholesale customers of notification events within four business hours, and in all other cases, within two business days after receiving notice from NBN Co.

Having considered Telstra's resubmitted draft required measure 1(b) against all of the Migration Plan Principles, the ACCC is not satisfied that Telstra's proposed commitment to notify wholesale customers of notification events complies with the continuity of service and equivalence requirements. In particular:

- The proposed timeframe in which Telstra can notify wholesale customers does not facilitate, to the extent that it is reasonably in Telstra's control to do so, the management by wholesale customers of the migration of their customers in a way that minimises the period of any service outage. As a result, draft required measure 1(b) does not comply with section 8(3)(a) of the Migration Plan Principles.
- The proposed timeframe does not provide, to the greatest extent practicable, for equivalence between Telstra's retail business units and Telstra's wholesale customers in the timing of the receipt of the notification and therefore their capacity to respond to the needs of their end-user customers. As a result, draft required measure 1(b) does not comply with section 8(1)(d) of the Migration Plan Principles.
- The proposed commitment to provide notification is inappropriately qualified on the basis that Telstra only "expects" to notify wholesale customers. On this basis, draft required measure 1(b) does not provide sufficient certainty that, to the extent that it is in Telstra's control, the notification process will help minimise disruption to the supply of fixed-line carriage services and therefore does not comply with section 8(1)(b) of the Migration Plan Principles.

Industry submissions to the ACCC's consultation processes on draft required measures 1(a) and 1(b) reveal that wholesale customers are concerned that Telstra's notification commitment will undermine their capacity to effectively respond to the needs of end-users that may be affected by a potentially prolonged service outage.

The potential impact of a prolonged service outage on an end-user ranges from the relatively minor, such as necessitating the use of an existing alternate service to make and receive calls; to the serious, such as where a business misses an important order; to

the potentially very serious, such as where the carer of a medically ill or vulnerable person misses an emergency call. In light of the potentially serious consequences of a prolonged service outage, the ACCC considers that Telstra must be required to notify wholesale customers as promptly as is reasonably in Telstra's control to do so.

The earlier notification provided to Telstra by NBN Co potentially enables Telstra to respond more quickly to the needs of its end-users than wholesale customers can respond to their end-users affected by a service outage. To satisfy the equivalence requirements of the Migration Plan Principles, Telstra's notification commitment must ensure, to the greatest extent practicable, that the timing of the notification to wholesale customers is as close to the time Telstra is notified by NBN Co.

A firm commitment to provide notification in a shorter timeframe will also ensure, to the extent that it is in Telstra's control, disruption to a wholesale customers fixed-line carriage services can be minimised. For the reasons outlined in Chapter 5, the ACCC considers that it is reasonably practicable for Telstra to implement and comply with a shorter notification timeframe.

The ACCC also considers that the performance standard against which Telstra's compliance with the notification timeframes is to be measured is insufficiently robust to ensure Telstra will be obliged to meet these commitments on an ongoing basis. Chapter 5 outlines the improvements that could be made to address this issue.

4. Process to obtain consents and releases from wholesale customers for pull through activities to occur (required measure 1(a))

The Migration Plan requires Telstra to develop a standardised process that enables it to use “reasonable endeavours” to obtain consents, releases and undertakings from its wholesale customers for NBN Co to undertake pull through on wholesale copper lines.

Under draft required measure 1(a), Telstra proposes to obtain the consents, releases and undertakings on a once off and global basis via Deed Poll. Information on whether a wholesale customer has signed the Deed Poll will then be retained by Telstra so that it can respond to NBN inquires on whether a cable can be used for pull through.

To approve required measure 1(a), the ACCC must be satisfied that Telstra’s standardised process complies with the continuity of service and equivalence objectives of the Migration Plan Principles. To this end, the process must facilitate wholesale customer management of the migration of their customers in a way that minimises the period of any service outage to the extent that it is reasonably in Telstra’s control to do so.⁹ The process must also provide for equivalent treatment of wholesale customers and retail business units in the implementation of pull through (to the greatest extent practicable). Pages 16 to 18 of the April Decision Paper outline the regulatory requirements and provide further detail on draft required measure 1(a).

Telstra will also seek a ‘disclosure consent’ via a separate consent form which, if signed, would permit Telstra to disclose wholesale customer confidential information to NBN Co for the purpose of undertaking pull through and to the ACCC upon request for the purpose of compliance monitoring and reporting on pull through activities.

4.1 The ACCC’s April Direction and Decision Paper

The ACCC refused to approve Telstra’s draft required measure 1(a) because the ACCC was not satisfied that it complied with the Migration Plan Principles. The ACCC reached this decision because draft required measure 1(a) did not:

- Establish reasonable policies and business practices that provide for Telstra to facilitate, to the extent that it is in Telstra’s control to do so, the management by wholesale customers of the migration of their customers in a way that minimises the period of the service outage occasioned by pull through.

⁹ Migration Plan Principles Determination, section 8(3)

- Provide for arrangements that minimise disruption to the supply of fixed-line carriage services caused by pull through to the extent that it is in Telstra's control to do so.
- Provide for equivalence between Telstra's retail business units and Telstra's wholesale customers in relation to pull through.
- Specify those known circumstances where a wholesale customer may not be able to control the timing of disconnection resulting from pull through.

The ACCC issued a Direction to Telstra to resubmit required measure 1(a) amended to take into account the above concerns. Pages 19 to 37 of the ACCC's April Decision Paper detail the ACCC's previous concerns. Page 64 of the April Decision Paper provided illustrative guidance on how Telstra could take into account the ACCC's concerns.

The following sections consider each concern identified in the ACCC's Direction to Telstra. Each section is structured in the following manner:

- ACCC concerns and illustrative guidance expressed in the April Decision Paper
- Telstra's resubmitted draft required measure and supporting submission
- Stakeholder feedback to the August consultation process
- ACCC views

4.2 The nature of the consent sought under the Deed Poll

The ACCC found that the consent sought under draft required measure 1(a) did not facilitate, to the extent that it is within Telstra's control, the management by wholesale customers of the migration of their customers in a way that minimises the period of the service outage occasioned by pull through. Therefore, draft required measure 1(a) did not comply with section 8(3) of the Migration Plan Principles.

Telstra has stated that obtaining consent on a once off global basis is the most efficient method for Telstra to obtain wholesale customer consent to pull through. This is because requiring Telstra to check whether wholesale customers have consented on a more granular, line by line basis for example, would be impractical and may cause considerable delays in responding to a NBN Co contractor on the day.

However, requiring wholesale customers to provide an unqualified consent potentially undermines their capacity to manage pull through for their customers. To assist Telstra in addressing the ACCC's concern, the ACCC provided illustrative guidance suggesting that the global consent be made conditional on NBN Co complying with instructions on a NBN connection order.

The ACCC's illustrative guidance was based on the understanding that a conditional consent would enable service providers to better manage the risks associated with the service outage by ensuring that NBN Co would not gain the benefit of the consents and releases under the Deed Poll unless it followed the instructions on a NBN connection order. The ACCC considered that a conditional consent could promote a smoother migration experience for end-users by facilitating the identification of any special needs that the NBN Co contractor should take into account in undertaking pull through.

The ACCC considered that Telstra should seek wholesale customer's consent in a manner that helped facilitate these outcomes. The ACCC also recognised that the Migration Plan Principles only require Telstra to facilitate wholesale customer management of pull through to the extent that it is within Telstra's control to do so. As pull through is an NBN connection process, there may be practical limits to the degree to which Telstra can establish processes that provide for wholesale customers to manage the pull through for their end-users.

To give effect to the ACCC's proposal for a conditional consent, Chapter 6 of the ACCC's April 2013 Decision Paper outlined a proposal for NBN Co to include a general notes field in its NBN connection orders. The ACCC understands that NBN Co does not intend to include a general notes field, but will have a box on the connection order that a service provider can check to indicate whether an end-user has provided consent.

4.2.1 Telstra's resubmitted draft required measure 1(a) and supporting submission

Telstra has not amended required measure 1(a) in the manner outlined by the ACCC in its illustrative guidance. However, Telstra's resubmitted required measure 1(a) includes alternative amendments that address the ACCC's concerns.

New clause 3 in resubmitted draft required measure 1(a), which is reflected in new clause 1.10 of the Deed Poll, clarifies that the releases and indemnities sought under the Deed Poll will not apply in circumstances where NBN Co undertakes pull through on a cable that is a "Non-Removable Cable". This includes any cable on which a wholesale customer or an end-user has not provided consent to pull through.

Under the Definitive Agreements, NBN Co has committed to perform cable rectification or install temporary cables at premises at which it has conducted pull through (except in very limited circumstances, such as certain complete migrations). These commitments oblige NBN Co to perform cable rectification at its own cost, without unreasonable delay and to a standard that can be reasonably expected from a competent contractor. New clause 3 in resubmitted draft required measure 1(a) commits Telstra to exercise its contractual rights to enforce NBN Co's commitments equivalently between retail and wholesale customer lines.

Telstra's supporting submission provides a number of reasons as to why it considers that the ACCC's illustrative guidance may not offer the most practical solution to addressing the ACCC concerns. In summary, Telstra considers that allowing a conditional consent reduces its capacity to provide clear information on the status of the cable to the NBN Co contractor. This may require Telstra to contact wholesale customers to confirm the nature of their consent or any instructions they may have which introduces additional administrative steps and the potential for delay in connecting the premises.

Telstra considers keeping the global consent to "a simple 'yes/no' input" to be managed by Telstra and communicated to NBN Co is more efficient and administratively practicable, particularly in light of Telstra's obligation to respond to NBN Co within an hour of being contacted to confirm a removable cable.¹⁰

Telstra considers that it is more efficient for NBN Co and the NBN RSP to deal directly with each other on any instructions relating to a NBN connection order and indicates that NBN Co's Wholesale Broadband Agreement (WBA) would provide a suitable vehicle by which NBN Co could require NBN RSPs to obtain end-user consent.¹¹

4.2.2 The August 2013 consultation process

Optus and AAPT both remain concerned about the lack of control wholesale customers appear to have over managing the pull through process for their customers. Optus submits that "if pull through was to take place in its current form, Telstra wholesale customers will have no control over the length of the disruption to the supply of carriage service."¹² AAPT states that it "remains concerned about having to provide a global consent to, and be liable for, processes which it still has little visibility of."¹³

4.2.3 ACCC views

While Telstra has not amended draft required measure 1(a) in the manner proposed by the ACCC in its April Decision Paper, the ACCC's illustrative guidance constituted only one approach to addressing the ACCC's concerns. The ACCC is satisfied that the arrangements given effect to by Telstra's resubmitted draft required measure 1(a) facilitate wholesale customer management of pull through for their customers in a way that minimises disruption to the supply of fixed-line carriage services, to the extent that it is reasonably in Telstra's control to do so.¹⁴

¹⁰ Telstra's supporting submission, p.1

¹¹ Ibid, p.3

¹² Optus submission, September 2013, p.1

¹³ AAPT submission, September 2013, p.1

¹⁴ The Migration Plan Principles Determination, section 8(3) and 8(1)(b)

For example, new clause 1.10 of the Deed Poll clarifies that NBN Co is obliged to obtain the consent of the end-user before it can use a cable for pull through. In this regard, the ACCC notes that NBN Co's revised WBA includes a requirement for RSPs to notify NBN Co through its connection order process whether an end user consents to NBN Co conducting pull through [see Chapter 6].¹⁵

Where an end-user is migrating to the NBN with its existing service provider, that service provider will be able to inform the end-user of the service outage occasioned by pull through and advise them on how to minimise service disruption, such as by way of interim call diversion services. The service provider may advise their end-user not to provide consent if they are concerned about the potential consequences of the service outage.

Where the end-user is churning service provider, the ACCC considers that the NBN RSP, as the gaining service provider, is well placed to manage the pull through process for their customers. For example, the NBN RSP will be best placed to obtain the end-users informed consent to pull through, which it must then pass on to NBN Co at the time a connection order is placed.

The ACCC considers that Telstra's new commitment to exercise the contractual rights it has to enforce NBN Co's commitments to perform cable rectification in an equivalent manner provides assurance that NBN Co will rectify all cables affected by a pull through exception event within the same timeframes.

The ACCC notes that Telstra has committed to engage with wholesale customers on the pull through process. The ACCC encourages wholesale customers to contact Telstra to ensure they are fully informed, to the extent that Telstra is able to inform them, of the pull through process before signing the Deed Poll.

The ACCC also notes that a wholesale customer does not have to sign the Deed Poll if it remains concerned about any aspect of the end-to-end process. In Chapter 6 of this Decision Paper, the ACCC discusses further steps that NBN Co could take to improve the transparency of the end-to-end process, including clarifying operational and contractual arrangements concerning end-user consent and cable rectification.

4.3 The scope of the releases under the Deed Poll

In the April Decision Paper, the ACCC decided that the releases sought by Telstra under the draft Deed Poll may undermine continuity of service objectives. This is because

¹⁵ Clause C10.2 of NBN Co's *Wholesale Broadband Agreement 2*, accessed via the NBN Co website on 19 December 2013

clause 1.6(a) and 1.6(c) of the draft Deed Poll released Telstra from responsibility for the lack of operation of carriage services on reinstated copper lines or temporary cables. For example, clause 1.6(c) of the draft Deed Poll provided that, subject to a negligent act or omission, the wholesale customer:

...absolutely releases each NBN Co Person and each Telstra Person in relation to any Loss or Claim for or in relation to...the operation, or lack of operation, of any carriage service on a Pull Through Cable (caused) by the Pull Through Activities, Cable Rectification or installation of a Temporary cable, for the period commencing on installation of a Temporary Cable until commencement of Cable Rectification.¹⁶

Telstra is best placed to manage service outages or faults on reinstated copper lines and is already obliged to do so under existing fault rectification obligations. On this basis, the ACCC concluded that the draft releases did not comply with the Migration Plan Principle that Telstra provide for arrangements that minimise disruption to the supply of fixed line carriage services to the extent that it is Telstra's control.¹⁷

The ACCC's illustrative guidance indicated that Telstra could take into account this concern by removing releases from the Deed Poll that limit the liability of the party best placed to manage a particular pull through risk.

4.3.1 Telstra's resubmitted required measure 1(a) and supporting submission

Under resubmitted required measure 1(a), Telstra has revised the Deed Poll to separate out the releases in favour of NBN Co (new clause 1.6) from the releases that it is seeking for itself (new clause 1.8). The previous releases in favour of Telstra concerning the operation of carriage services over reinstated or temporary cables have been removed.

Telstra states that it has removed the releases under previous clauses 1.6(a) and 1.6(c) of the draft Deed Poll to "make it clear that Telstra is not released from claims in relation to reinstated or temporary cables – in effect, other liability regimes (such as s.118A of the TCPSS Act, if relevant) will apply on reinstated or temporary cables."¹⁸

Telstra has also removed a release in favour of NBN Co that provided that NBN Co was released for a failure to notify Telstra completely and accurately of a pull through exception event or the installation of a temporary cable. Telstra has clarified that this release will only apply in Telstra's favour where NBN Co has not notified Telstra of the

¹⁶ Clause 1.6(c) of the draft Deed Poll, August 2012

¹⁷ Migration Plan Principle 8(1)(b)

¹⁸ Telstra supporting submission, p.5. The "TCPSS" refers to the *Telecommunications (Consumer Protection and Service Standards) Act 1999 (Cth)*

required details of the pull through exception event or installation of a temporary cable.¹⁹ In regards to the scope of the releases sought in favour of NBN Co, Telstra states:

“The purpose of RM 1(a) is to accommodate the special circumstances surrounding pull through as part of the rollout of the NBN. NBN Co requires releases as part of offering pull through as an alternative to other connection methods which may involve more physical dislocation and expense at end user premises. Telstra has provided these releases in NBN Co’s favour for its own retail customers”.²⁰

4.3.2 The August 2013 consultation process

Optus submits that clause 1.8(a) of the Deed Poll is inappropriate as Telstra should not be released from any loss or claim in relation to the lack of operation of any carriage service during the period between the commencement of a pull through exception event and the completion of pull through, cable rectification or the installation of a temporary cable after the pull through exception event is no longer in effect.²¹

4.3.3 ACCC views

Telstra’s resubmitted draft required measure 1(a) has addressed the ACCC’s concerns outlined in the ACCC’s April Direction.

Under the Deed Poll, Telstra is no longer released from responsibility for the operation of carriage services over reinstated or temporary cables. Rather, existing legislative arrangements such as that provided under section 118A of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (Cth) will govern the allocation of liability for service outages on reinstated and temporary cables.

The ACCC considers that the releases are now consistent with service continuity objectives. Telstra will remain responsible for rectifying faults on copper carriage services until those services are disconnected.

The release under clause 1.8(a) of the Deed Poll excludes Telstra’s liability for the lack of operation of carriage services where an NBN Co contractor is unable to complete pull through, cable rectification or install a temporary cable. However, the ACCC is satisfied that the Deed Poll now provides for arrangements that limit disruption to the supply of fixed line carriage services to the extent that it is in Telstra’s control. In particular, Telstra’s new commitment under clause 3 of resubmitted draft required measure 1(a)

¹⁹ The relevant details are specified under new clause 5.4 of required measure 1(b)

²⁰ Telstra supporting submission, p.5

²¹ Ibid, p.1

(discussed above) provides assurance that NBN Co will rectify all cables affected by pull through in a timely manner.

The removal of the release under previous clause 1.6(g) of the draft Deed Poll addresses the ACCC's concern that such a release may have an adverse effect on the quality of the communications provided by NBN Co concerning pull through exception events.

In regards to the other releases sought in favour of NBN Co, the ACCC accepts that NBN Co requires these releases to undertake pull through. Without them, NBN Co would be liable for the service outage and therefore would not use pull through at all. Importantly, NBN Co will be liable for any loss or claim that arises as a result of its negligence or where it uses a "Non-Removable Cable" for pull through.

The ACCC notes that the standard of the installation work undertaken by NBN Co in reinstating cable or installing temporary cables may affect the capacity of service providers to recommence the supply of existing copper based services. The need for an operational document setting out the steps that NBN Co will take to ensure the quality of the manual and operational work in reinstating or installing cables is discussed further in Chapter 6 of this Decision Paper.

4.4 Equivalence of releases sought under the Deed Poll

The ACCC directed Telstra to amend draft required measure 1(a) to ensure that it provides equivalence between Telstra's retail business units and Telstra's wholesale customers in the implementation of pull through processes. In particular, the ACCC was concerned that Telstra appeared to be seeking releases from obligations to respond to service quality complaints from wholesale customers that the ACCC considered it would not seek from its retail customers.

4.4.1 Telstra's resubmitted required measure 1(a) and supporting submission

As noted above, Telstra has removed clauses 1.6(a) and 1.6(c) from the Deed Poll that released it from responsibility for fault rectification of copper services provided over reinstated and temporary cables.

Telstra has also added a new commitment in clause 3 of required measure 1(a) to enforce any contractual rights it has under the Definitive Agreements to seek performance by NBN Co of its commitments to perform cable rectification or install temporary cables after a pull through exception event in an equivalent manner.

At page 6 of its supporting submission, Telstra states that:

“Telstra disagrees that the releases and indemnity in the Deed Poll are more extensive than the releases which Telstra has given NBN Co in respect of its own retail customers. Both Telstra and the wholesale customer release NBN Co and assume responsibility for damages to end users caused by pull through. Telstra has done this through its agreements with NBN Co, while the wholesale customer would do so through the Deed Poll.

The release and indemnity given by Telstra to NBN Co effectively means that in many circumstances Telstra cannot claim compensation from NBN Co in respect of issues that arise during pull through. This means that in many circumstances Telstra bears the risk of any loss or damage suffered by its retail customers from service outages caused by pull through.

By providing the releases and indemnities set out in the Deed Poll, the wholesale customer is effectively in the same position as Telstra, in relation to damage claims by end users.”²²

4.4.2 The August 2013 consultation process

Optus submits that the lack of transparency over the arrangements between Telstra and NBN Co in relation to resolving pull through exception events as well as the lack of visibility over problems with Telstra’s LICs means that “wholesale customers cannot be said to be in an equivalent position to Telstra to provide the required consent”.

Optus submits that the Deed Poll “highlights clear inconsistency that on the one hand pull through required measures are limited to Telstra’s role in the pull through process; but on the other hand the proposed Deed Poll requires Telstra wholesale customers to release both Telstra and NBN Co from any liability.”

Optus also “reiterates the need for an industry forum to develop an end to end pull through process that provides equivalent treatment of Telstra’s wholesale and retail customers and has clearly defined accountability and responsibility for all parties involved in the process.”²³

AAPT agrees that a lack of transparency may create information asymmetry which the new commitments to equivalence do not sufficiently address.”²⁴

4.4.3 ACCC views

The ACCC considers that Telstra has adequately taken into account the concerns raised in the April Decision Paper and Direction. In particular, the removal of the releases under previous clauses 1.6(a) and (c) of the draft Deed Poll ensures, to the greatest extent practicable, that Telstra will respond to service faults on wholesale customer lines

²² Telstra supporting submission, August 2013, p.6

²³ Optus submission, September 2013, p.1-2

²⁴ AAPT submission, September 2013, p.1-2

in an equivalent manner to how it will respond to faults on retail customer lines. As a result of these amendments, the ACCC considers that the releases sought from wholesale customers under the Deed Poll are equivalent to the releases that Telstra has provided to NBN Co under the Definitive Agreements.

The ACCC notes the concerns of Optus and AAPT in relation to the lack of transparency over the rights and obligations in the Definitive Agreements that govern the reestablishment of copper connectivity after a pull through exception event has ceased to have effect.

The ACCC has reviewed the rights and obligations and is satisfied that Telstra's new commitment to enforce any contractual rights it has under the Definitive Agreements to seek NBN Co performance of cable rectification or installation of temporary cables in an equivalent manner provides that, to the greatest extent practicable, services affected by pull through will be re-established in a non-discriminatory manner.

That said, the ACCC considers that greater clarity over the end-to-end process will be of considerable benefit to enabling industry and consumers to make a more informed assessment of the pull through process and whether it is reasonable to consent to its use. In Chapter 6 of this Decision Paper, the ACCC discusses the potential for an end-to-end process operational document to facilitate this outcome.

4.5 Specify circumstances in which wholesale customer cannot control the timing of disconnection

Section 19 of the Migration Plan Principles requires that the Migration Plan must set out "any known circumstances where a wholesale customer may not be able to" "take reasonable steps...in order to control the timing of the disconnection by Telstra of wholesale carriage services." The ACCC considered that the initial draft required measure 1(a) did not comply with section 19(2) of the Migration Plan Principles and directed Telstra to amend the required measure to take into account this concern.

4.5.1 ACCC Views

Telstra has addressed this concern by inserting a paragraph under clause 1 of required measure 1(a) clarifying that pull through is a known circumstances where wholesale customers may not be able to take reasonable steps to control the timing of disconnection. The ACCC is satisfied that required measure 1(a) complies with section 19(2) of the Migration Plan Principles.

5. Process to notify wholesale customers of pull through exception events (required measure 1(b))

There may be circumstances where NBN Co contractors are not able to complete pull through on the day. For example, poor weather conditions (fire, flood etc.) or an unmanageable occupational health and safety risk may require the NBN Co contractor to discontinue the pull through process. Such circumstances are known as “pull through exception events”. The three most common types of pull through exception events are:

- (i) Prevention of completion of pull through activities—where NBN Co’s fibre has not been passed through the LIC to the premises and cable rectification is not completed.
- (ii) Prevention of cable rectification—where the copper line was fully or partly removed during the pull through process but NBN Co cannot return the previous (or replacement) copper line back into the conduit.
- (iii) Prevention of installation of a temporary cable—where NBN Co is prevented from installing a temporary cable to provide services on the NBN. A temporary cable will only be installed in circumstances where the copper line (or replacement) cannot be reinstated in the conduit.²⁵

Pull through exception events have the potential to extend the period of the service outage occasioned by pull through. As the network operator of the copper access network, Telstra is best placed to identify the services or the wholesale customer that may be affected by a pull through exception event. Telstra can thus play an important role in helping to ensure that retail end-users and wholesale customers are notified of a pull through exception event and thereby able to manage any long term impact.

Clause 10.2 of the migration plan requires Telstra to develop a required measure outlining how it will give “prompt notification” to affected wholesale customer(s) if NBN Co advises Telstra that a pull through exception event has occurred or that NBN Co has installed a temporary cable (together referred to as ‘notification events’).

Resubmitted draft required measure 1(b) outlines how Telstra proposes to advise wholesale customers that a notification event has occurred. Part 5 outlines the steps that Telstra will take to advise affected wholesale customers of a notification event. Part 6 of contains a flow diagram to illustrate the communications process for notification events.

²⁵ Telstra’s resubmitted draft required measure 1(b), p. 3.

5.1 The ACCC's April Decision Paper and Direction

In April 2013, the ACCC refused to approve Telstra's draft required measure 1(b) because it was not satisfied that it complied with the Migration Plan Principles for the following reasons:

- The draft required measure did not include sufficient detail to enable the ACCC to be satisfied that Telstra's proposed approach to notifying wholesale customers of notification events facilitates the management by wholesale customers of the migration of their customers in a way that minimises the period of any service outage.
- The draft required measure did not include sufficient detail to enable the ACCC to be satisfied that Telstra's proposed approach to notifying wholesale customers of notification events will be equivalent as between wholesale customers and Telstra's retail business units.
- The draft required measure did not ensure that the ACCC will be provided with sufficient information to monitor Telstra's ongoing compliance with, and the effectiveness of the draft required measure.

The ACCC directed Telstra to resubmit required measure 1(b) amended to take into account the above concerns. Pages 39 to 47 of the ACCC's April Decision Paper details the ACCC's assessment of Telstra's draft required measure 1(b) as well as the relevant Migration Plan Principles against which the ACCC made its assessment. Page 64 of the April Decision Paper provides illustrative guidance on how Telstra may take into account the ACCC's concerns. The following sections deal with each concern identified in the ACCC's Direction to Telstra. The section is structured in the following manner:

- ACCC concerns and illustrative guidance expressed in the April Decision Paper
- Telstra's resubmitted required measure and supporting submission
- Stakeholder comment to the August consultation process
- ACCC views

5.2 Notifications to promote continuity of service

The service outage occasioned by pull through poses risks to all end-users. The severity of this risk will differ amongst end-users, but will be more severe for vulnerable end-users or others that rely on their fixed line service to receive important phone calls from time to time, such as carers or small businesses. The severity of the risk will also scale with the period of service outage, and hence will be highest for consumers where there is a pull through exception event that precludes service being recommenced within usual timeframes.

In recognition of the risks of service outage to consumers, the Migration Plan Principles include a number of continuity of service objectives. In considering whether Telstra's draft required measure 1(b) complies with the Migration Plan Principles, the ACCC is required to consider whether the measure will:

- to the extent it is in Telstra's control, minimise disruption to the supply of fixed-line carriage services, and
- provide for Telstra to facilitate, to the extent it is reasonably in Telstra's control to do so, the management by wholesale customers of the migration of their customers in a way that minimises the period of any service outage

These considerations militate for exception event notifications that are:

- Sufficiently detailed to enable a wholesale customer to determine whether their end-user requires an alternative communications product and/or service and if so, the most appropriate product or service,
- Sufficiently prompt to enable a wholesale customer to respond to the needs of their customers in a way that minimises the period of any service outage.
- Sufficiently certain to ensure that Telstra will be obliged to notify wholesale customers in a manner that minimises disruption to the supply of fixed-carriage services.

In April 2013, the ACCC directed Telstra to provide more detail on the content of the notifications it would provide to wholesale customers in order to assess whether the notification enables wholesale customers to manage the period of any service outage. The ACCC's illustrative guidance indicated that Telstra could address the lack of detail by including information on the nature of the notification event and rectification timeframe in the notice.

The ACCC also noted that the timing of notifications and the manner in which wholesale customers are notified will affect a wholesale customer's capacity to manage the period of the service outage for their customers.

5.2.1 Telstra's resubmitted required measure 1(b) and supporting submission

Telstra has inserted a new clause 5.4 in required measure 1(b) which states that:

The notification advice provided to TW customers will include:

- The Telstra fault reference number
- The service address and/or NBN locations ID
- Exception event start date and time

- Reason for the pull through exception event; and
- Other information provided by NBN Co to Telstra in respect of the Notification Event except information which is confidential to NBN Co, e.g. contact details of the NBN Co technician

In addition, the Wholesale Customer can search LOLS fault records to track progress of the record using search functions based on either the Telstra fault reference number provided in the notification or the full national number (FNN).

Telstra states that the only information Telstra will not pass on is the confidential contact details of the NBN technician. Information on the rectification timeframe will be provided to wholesale customers if provided to Telstra.²⁶

Telstra has clarified that Telstra Help Desk staff will process all notification events through Telstra's fault management system, SIIAM, which will automatically trigger an update to the wholesale customer accessible LinxOnline Service (LOLS).²⁷

Once SIIAM is updated, the Help Desk will advise the Telstra Wholesale point of contact who will notify the wholesale customer via a "business as usual (BAU) communications process which Telstra uses to notify that Wholesale customer of service outages."²⁸

Telstra's resubmitted draft required measure 1(b) states that Telstra expects that "in at least 90% of cases" wholesale customers will be notified "within 4 Business Hours of Telstra being advised by NBN Co."²⁹ Further, the notification process flow diagram under clause 6 indicates that wholesale customers will be notified "no later than two business days after Telstra receives notice from NBN Co".³⁰

5.2.2 The August 2013 consultation process

AAPT submits that:

"Required Measure 1(b) still does not provide sufficient notification of pull through activities to allow AAPT and other wholesale customers to effectively manage their own customers during the process. Without this ability, the Notification Events are likely to result in unplanned outages. In many cases, AAPT has binding commitments to rebate its customers for unplanned outages. Accordingly, the ability to minimise the frequency and period of any unplanned service outage is crucial."³¹

²⁶ Telstra supporting submission, p.9

²⁷ Telstra's resubmitted draft required measure 1(b), clause 5.3, step 4

²⁸ Ibid, p.9

²⁹ Telstra's resubmitted draft required measure 1(b), clause 5.3, step 6

³⁰ Telstra's resubmitted draft required measure 1(b), clause 6

³¹ AAPT submission, September 2013, p.2

AAPT submits that the four hour timeframe for notifying wholesale customers (in at least 90% of cases) is too long. AAPT states that “Telstra should be able to provide the notice within 1-2 hours after it has been advised by NBN Co.”³²

AAPT also raised a concern about the BAU process that Telstra has committed to use to notify wholesale customers, stating that “there is no existing BAU process for notification of unplanned outages to AAPT.”³³ AAPT adds that the existing process for notifying planned outages is via email, however this cannot be used for unplanned outages as the relevant group only manages planned outages.

AAPT submits that resubmitted draft required measure 1(b) effectively requires wholesale customers to check the Telstra Wholesale Customer Portal (TWCP) for unplanned outages which is “completely unsatisfactory in the context of learning about Notification Events as it will require AAPT to invest in resources to proactively monitor the TWCP for such activity”.³⁴

5.2.3 ACCC views

The proposed notification timeframe

Telstra’s resubmitted draft required measure 1(b) provides that Telstra “expects” to notify wholesale customers of notification events within four business hours in at least ninety per cent of cases and up to two business days for the remaining ten per cent.³⁵ This commitment remains unchanged from the previous draft required measure 1(b).

As a consequence of this, the ACCC is not satisfied that resubmitted draft required measure 1(b) complies with Migration Plan Principles 8(1)(b) and (d) and 8(3)(a) for the reasons outlined below.

Concerns about the need for prompt notification of notification events

In response to the December 2012 discussion paper, Herbert Geer (on behalf of iiNet),³⁶ Optus,³⁷ AAPT³⁸ and ACCAN³⁹ all raised concerns about the adequacy of the timing of Telstra’s proposed notification. These concerns were reiterated by AAPT in its response to the August 2013 consultation process.

³² Ibid, p.2

³³ Ibid, p.2

³⁴ Ibid, p.2

³⁵ Telstra’s resubmitted draft required measure 1(b), clause 5.3, step 6

³⁶ Herbert Geer on behalf of iiNet, February 2013 submission, p.11 and 13

³⁷ Optus submission, February 2013, p.5

³⁸ AAPT submission, February 2013, p.11

³⁹ ACCAN submission, February 2013, p.2-3

All wholesale customers indicated support for either equivalence in the timing of the notice or at least a shorter timeframe. For example, Optus submitted “that the wholesale customer should receive notification within 2 business hours in all cases.”⁴⁰ AAPT submitted that it should be “advised as soon as Telstra becomes aware of it, or not long after...otherwise, [it] is likely to...breach of equivalen[ce] obligations.”⁴¹

ACCAN submitted that the notification commitment should be sufficiently timely to ensure that consumers are adequately informed of any delays occasioned by poor weather conditions or other factors. To ensure this objective is achieved, ACCAN suggested that “notification obligations on Telstra...should not be vague.”⁴²

ACCC Views

Due to the potentially significant consumer detriment that may result from a prolonged service outage, it is important that service providers be in a position to respond to end-user needs in a timely and effective manner.

This objective will be best achieved where wholesale customers are notified at, or as close as possible to, the time Telstra is notified by NBN Co.

Further, this objective will be best served by the notice being directly communicated to the wholesale customer. Telstra has committed to update its internal systems (SIAM) “within minutes” of receiving notification from NBN Co. While the update to internal systems will also feed into wholesale customer facing systems, this will not be sufficient to draw the service outage to the attention of the wholesale customer. Consequently, the wholesale customer will be dependent upon Telstra to provide a specific notification of the service outage before it will be in a position to proactively manage the consequences of the service outage for the consumer.

It is also important that Telstra’s wholesale customers are left in an equivalent position to Telstra in responding to the needs of their end-users affected by an exception event. [see section 5.3 below]. Again, this objective is best met by the wholesale customer receiving notification close to the time, and in generally the same way, as Telstra being notified of the exception event.

In these circumstances, the ACCC is concerned that the wholesale customer may have to wait up to four business hours and in some cases up to two business days before being notified by Telstra of the service outage caused by a pull through exception event. On the other hand, once notified by NBN Co, Telstra is able to respond in a proactive and

⁴⁰ Optus submission, February 2013, p.5

⁴¹ AAPT submission, February 2013, p.11

⁴² AAPT submission, February 2013, p.2-3

timely fashion to meet the needs of its end-users. This clearly raises equivalence as well as continuity of service concerns [see section 5.3 below].

The ACCC is also concerned that draft required measure 1(b) does not provide a clear commitment to meet the target timeframes and performance standards in practice.

In the December discussion paper, the ACCC sought feedback on whether the inclusion of a process for notifying wholesale customers ahead of the use of pull through might assist wholesale customers to manage service continuity for their end-users.

Responses to this proposal, including from Telstra and NBN Co, indicated that a prior notification requirement would likely impose substantial costs on Telstra and potential delays to a NBN Co contractor undertaking pull through. In light of this the ACCC did not further pursue the proposal. However, the lack of a prior notice regime places more weight on the need for prompt notice of exception events.

In providing guidance to Telstra in responding to these concerns, the ACCC does not consider it necessary to prescribe a process by which Telstra is to provide its notification to wholesale customers. Rather this guidance focuses on the performance standards and the associated target timeframes that could be adopted in order to resolve the concerns.

In this regard, the ACCC considers that the proposed performance standard – namely that ninety per cent of notifications will be provided within a four business hour target timeframe and that all notifications will be provided within a two business day timeframe – is not sufficient for the proposed measure to comply with the Migration Plan Principles.

There could be a number of alternate formulations that Telstra could adopt in specifying an acceptable performance standard. For example, consistent with industry submissions, Telstra may commit to a standard that would require it to provide all notifications within two business hours.⁴³ Alternatively, Telstra could maintain the current tiered structure of its performance standard but reduce the target timeframes so that, e.g., ninety per cent of notifications are provided in one business hour, with all notifications to be given in four business hours.

The ACCC also considers that the performance standard should be expressed in a clear manner, and constitute a commitment to its actual performance rather than record only Telstra's current expectations as to what its performance will be.

⁴³ Optus submission, February 2013, p.5

It will also be necessary for the performance standard to specify the period over which it is to be assessed, and for the reporting obligation to be modified to bring it into line with amended target timeframe. [see section 5.4].

The ACCC has also considered whether it is likely to be practicable for Telstra to provide a firmer commitment to provide notifications in reduced timeframes. The ACCC is of the view that with appropriate planning Telstra could provide notifications to this standard.

This is principally because Telstra is already required to establish a help desk and information systems that will enable it to process quickly the calls it receives from NBN Co concerning pull through. In this regard, Telstra has committed to processes that enable it to respond to an NBN Co contractor within one hour on the status of a cable that might be used for pull through.⁴⁴ Similar processes can be used to identify wholesale customers that are affected by exception events. The task of then notifying wholesale customers is relatively straightforward and can be satisfied by using established processes.

Further, in the ACCC's view, the volume notifications that Telstra will be required to provide to wholesale customers will likely be low, although each will need to be responded to appropriately. The ACCC has reached this position on the basis of:

- Pull through is a “fall back” connection process – NBN Co contractors will generally push fibre through the LIC to connect premises rather than use pull through.
- Confidential data provided to the ACCC by NBN Co indicates that the number of premises where fibre has to date been successfully installed without the use of pull through is high, and hence the proportion of premises that may require pull through in order to use the existing LIC will be relatively low.
- The required measure relates only to the use of pull through to install fibre lead in cables where there are existing copper or HFC cables at the premise – with the expected change to use a range of NBN technologies in brownfields areas, there will be significantly fewer instances of fibre pull throughs attempted.
- Instances of pull through exception events will be considerably smaller than the total number of fibre pull throughs attempted, of which only a sub-set will involve wholesale customers.

The alternative notification timeframes provided in the guidance set out above have been developed on the basis that it is unlikely that Telstra will be required to notify an excessive number of pull through exception events.

Should the volume of exception events be higher than those currently envisaged, then this could raise legitimate issues with Telstra's ability to meet such a performance standard, as well as potentially raising more fundamental issues around the sufficiency of the risk treatments that had been built into the end-to-end pull through process.

The ACCC would therefore be open to the inclusion of a review mechanism in the required measure that would allow the performance standard to be adjusted should a large volume of exception events occur in practice. Given the more fundamental concerns this could trigger, it would be important for this mechanism to operate in an open and transparent manner.

The ACCC has discretion over any enforcement action in relation to the migration plan. In this context, in exercising its discretion, one of the factors the ACCC would have regard to is the scale of notifications Telstra was required to process at the time.

Other aspects of the notification process

The ACCC is satisfied that new clause 5.4 of resubmitted draft required measure 1(b) will ensure that wholesale customers are provided with sufficiently detailed information to enable them to effectively manage any service outage after a notification event.

In regard to AAPT's concern about the potential need to pay rebates to its customers, the ACCC notes that, from the end-user's perspective, service outages occasioned by pull through will generally not be unplanned because pull through is a demand-driven process. The end-user will have had to place a connection order for NBN fibre services for pull through to be used and to have consented to its use.

The ACCC is also satisfied that Telstra's commitment to notify wholesale customers via a business as usual (BAU) communications process is sufficient to ensure that Telstra will provide wholesale customers with notifications in a manner compatible with established wholesale customer systems and processes.

Consideration of the factors under clause 28.2(b) of the migration plan

The ACCC has considered the potential cost implications of amending the required measure to take into account the ACCC's concerns. In this regard, the ACCC considers that the cost implications for Telstra are likely to be minimal because:

- Telstra already has, or has already committed to have, the systems and processes that would be necessary to meet a commitment with reduced target timeframes.

- For the reasons outlined above, the ACCC considers that the volume of notifications that Telstra will need to process is likely to be low.
- Hence, it is unlikely that any substantial further staffing or systems development will be required for Telstra to comply with a stricter commitment.

The ACCC also considers that the consumer benefit provided by a firmer and prompter notification timeframe commitment outweighs these potential costs implications.

The ACCC considers that a more definite commitment to notify wholesale customers in a shorter timeframe is appropriate, administratively manageable and will help ensure that wholesale customers can effectively manage any service outage for the consumer.

As noted above, the ACCC is open to Telstra including a mechanism that would facilitate the review of the notification commitments should the volume of notifications be excessive so as to raise material cost concerns.

5.3 Equivalent notice to retail and wholesale customers

To comply with the Migration Plan Principles, required measure 1(b) must provide that the content, form and timing of the notifications are equivalent as between wholesale customers and Telstra retail business units. The notification process commitments should ensure that, to the greatest extent practicable, wholesale customers are in an equivalent position as Telstra retail business units to respond to the service outage.

In the April Decision Paper, the ACCC concluded that draft required measure 1(b) did not provide sufficient detail to enable the ACCC to determine whether the processes promoted equivalence. This was because draft required measure 1(b):

- Appeared to allow for Telstra’s discretion as to the communication channel to be used to provide notifications to wholesale customers
- Was silent on the content of the notification advice

The ACCC provided illustrative guidance on how Telstra could amend draft required measure 1(b) to ensure that it included sufficient detail to enable the ACCC to determine whether the content, form and time of notifications would be equivalent.

The ACCC also considered that Telstra needed to clarify that the Telstra Help Desk staff responsible for providing notifications should be situated outside of both Telstra Retail and Wholesale teams, noting that a “neutral area of operations” such as the NBN Interface Group would be preferable.

5.3.1 Telstra’s resubmitted required measure 1(b) and supporting submission

In regards to the notification processes, new clause 7 of the resubmitted required measure 1(b) provides that:

Telstra's process to notify wholesale customers of notification events will be equivalent as between wholesale customers and Telstra's retail business units in respect of Telstra updates to the fault reporting databases, which automatically creates a fault record in LOLS.

The step to notify Wholesale Customers of Notification Events (as set out in step 6 of section 5.3 of this Required Measure) is a notification made to Wholesale Customers only, and is in addition to any notification of a Pull Through Exception Event to Telstra's Retail business units.

Once notified by the Telstra Help Desk, the Telstra Wholesale point of contact will notify the Telstra Wholesale customer through a "business as usual communications process which Telstra uses to notify that Wholesale customer of service outages"⁴⁵

Clause 5.4 also includes a commitment that Telstra will provide wholesale customers with other information provided to Telstra by NBN Co in respect of a notification event.

Amended clause 5.5 commits Telstra to locate Telstra Help Desk staff responsible for notifying wholesale customers in a business group outside Telstra Retail.

5.3.2 The August 2013 consultation process

AAPT raised a number of concerns about the level of equivalence provided by Telstra's resubmitted required measure 1(b). Many of these concerns are outlined above. AAPT also posed the following questions about the detail under clause 5.3:⁴⁶

- Can pull through occur outside of business hours?
- What are the hours of operation of the Help Desk?
- In Step 3 [of clause 5.3], what happens if there is a records mismatch?
- No escalation paths/processes have been set out.

The ACCC has considered these points and addresses each of them below.

5.3.3 ACCC Views

Telstra has taken the ACCC's concerns into account by including sufficient detail on the content to be provided in wholesale customer notifications. The ACCC is satisfied that this aspect of the notification commitment under draft required measure 1(b) provides for equivalence.

⁴⁵ Telstra's resubmitted draft required measure 1(b), clause 5.3, step 6

⁴⁶ AAPT submission, September 2013, pp.2-3

With regard to equivalence in the notification process, Telstra has acknowledged that the step to notify wholesale customers under step 6 of clause 5.3 is additional to the steps taken to notify Telstra's Retail business units.⁴⁷ As a result, it is conceivable that wholesale customers will be notified at a later time than Telstra Retail business units.

Equivalence in the timing of the notice can only be assured where the wholesale customer is actively monitoring the LinxOnline Service (LOLS) for the fault update. As discussed above, the ACCC considers that this is impractical for wholesale customers and also inappropriately undermines their capacity to proactively manage the period of the service outage for their customers.

The earlier notification provided to Telstra by NBN Co potentially enables Telstra to respond more quickly to the needs of its end-users than wholesale customers can respond to their end-users affected by a service outage. The ACCC agrees with wholesale customer submissions that Telstra's proposal to notify wholesale customers within four business hours in ninety per cent of cases and within two days in all cases does not sufficiently ameliorate any non-equivalence that may arise from Telstra's receipt of an earlier notification.

To satisfy the equivalence requirements of the Migration Plan Principles, Telstra's notification commitment must ensure, to the greatest extent practicable, that the timing of the notification to wholesale customers is as close as possible to the time Telstra is notified by NBN Co. The ACCC considers that a prompt timeframe for the provision of notifications should lessen the need for wholesale customers to monitor LOLS or develop new arrangements to receive notifications. As noted at [4.2.3.1] the ACCC considers that Telstra can effectively address this concern with little to no extra cost or compliance risk.

In response to AAPT's concerns and questions, the ACCC notes the following:

- The ACCC understands that NBN Co will only use pull through during the hours in which NBN RSPs can make appointment times for NBN fibre connections through the NBN service qualification system.
- Telstra has committed to staff the Telstra Help Desk between 7am to 8pm Sydney time Monday to Friday, excluding national public holidays, unless otherwise agreed with NBN Co.⁴⁸
- The ACCC understands that it is highly unlikely for there to be a data mismatch between Telstra and NBN Co's address records because the address data in

⁴⁷ Telstra's resubmitted draft required measure 1(b), clause 7

⁴⁸ Telstra's resubmitted draft required measure 1(b), clause 5.5

Telstra's NBN database will have been subject to the address matching process required to facilitate NBN Co's fibre rollout.⁴⁹ Any mismatch that may occur will be attributable to human error, such as the provision of an incorrect address to Telstra by an NBN Co contractor on the day, which cannot easily be prevented.

- The ACCC understands that there is not to be any escalation process specific to the notification regime. At this time the ACCC is of the view that such an escalation path is not needed. If operational experience indicates that such a process is required, then the ACCC may consider the need to vary the required measure.

Telstra's commitment to ensure that Help Desk staff are located outside Telstra Retail addresses the ACCC's concerns about the potential competitive advantage of Retail having access to notification event information prior to wholesale customers.⁵⁰

5.4 Compliance reporting

Subsection 31(4) of the Migration Plan Principles requires that the reporting framework in the Migration Plan must provide the ACCC with sufficient information to monitor Telstra's compliance with, and the effectiveness of the Migration Plan.

In April, the ACCC directed Telstra to amend draft required measure 1(b) to include an additional metric relating to the time taken by Telstra to advise wholesale customers of notification events.

Telstra has included a new commitment under clause 8 of resubmitted draft required measure 1(b) to report on Telstra's performance against the target service metric of providing notifications to wholesale customers. Telstra will report on a quarterly basis through its Migration Plan Compliance Report.

Provided that Telstra undertakes this reporting consistent with the target timeframes that are to be adopted in a revised measure, the ACCC considers that the proposed form of reporting would show how well Telstra is meeting the performance standard for providing notifications.

Should a review mechanism be built into a revised measure then there may be a need for additional information to be included in the quarterly report or otherwise provided to the ACCC. For instance, a count of the number of pull through attempts and pull through exception events might assist in forecasting whether Telstra will be able to meet the

⁴⁹ This information is NBN Co Migration Information and will be subject to the protections under the NBN Information Security Plan under required measure 6.

⁵⁰ Telstra's resubmitted draft required measure 1(b), clause 5.5

performance standard, or to ascertain whether an unexpected volume of exception events or other causes are driving any failures by Telstra to meet the performance standard.

6. The adequacy of the end-to-end pull through process

In Chapter 6 of the ACCC April Decision Paper, the ACCC raised a number of concerns about the end-to-end pull through process that had been raised in submissions to the December discussion paper. In particular, stakeholders raised concerns about:

- The lack of clarity on the end-to-end pull through process.
- The arrangements for end-user consent.
- Arrangements for providing NBN Co with information about priority assistance and medical alert services.

The ACCC considered that these issues related to responsibilities and obligations of NBN Co and all service providers, including Telstra, and therefore could not be appropriately or comprehensively dealt with under the required measures.

To help address these concerns, the ACCC made a number of suggestions for contractual or operational mechanisms that it considered may complement required measures 1(a) and 1(b). The ACCC made the following proposals:

- NBN Co could include a notes field on its connection orders to enable NBN RSPs to provide instructions about an end-user's needs. If NBN Co undertook pull through without regard to these instructions then NBN Co would be liable for any resulting loss or claim.
- NBN Co could require NBN RSPs, through its Wholesale Broadband Agreement (WBA), to collect and pass on information about an end-user's consent to pull through or the presence of priority assistance or medical alert services at a premises
- NBN Co could produce an operational document outlining the end-to-end pull through process

The ACCC's intention was to offer a model for assigning rights and responsibilities for aspects of pull through that were of concern to stakeholders and posed risks to service continuity for end-users. The ACCC considered that this would lead to an end-to-end process that best managed the risks posed by pull through.

In response, NBN Co has stated that:

- NBN Co intends to publish an operational document covering the end-to-end pull through process.
- Prior to leaving the premises where pull through has been used, the NBN Co installer will be obliged to reinstate the pull through cable or install a temporary

cable to ensure that copper based communications services can be provided to the premises.

- NBN Co performance of pull through will be subject to the Service Level Agreement regime for fibre connection outlined in the NBN Co's WBA.
- NBN Co will not undertake pull through on any cable (that NBN Co knows is) used to provide a priority assistance or medical alert service (a "Non-Removable cable").
- NBN Co intends to include provisions in its WBA that required NBN RSPs to use "reasonable endeavours" to obtain end-user consent for NBN Co to conduct pull through.⁵¹

6.1 Recent Developments

As noted in Chapter 4 above, Telstra has amended required measure 1(a) to clarify that NBN Co will not gain the benefit of the releases in the Deed Poll if it uses a "Non-Removable Cable" to undertake pull through.

Further, the recently published NBN Co Wholesale Broadband Agreement (WBA) includes amendments to clause C10.2 that require NBN RSPs to use "reasonable endeavours" to obtain end-user consent to pull through. The provisions also require the NBN RSP to notify NBN Co of this consent if obtained and whether any priority assistance or medical alert services are provided to that premises.⁵²

The ACCC considers that these amendments provide greater assurance that NBN Co will meet its commitment to not pull through lines:

- that it knows are used to provide priority assistance and medical alert service and
- for which an end-user has not provided their consent for pull through.

The ACCC has previously indicated that the undertaking sought under clause 1.5 of the Deed Poll provides some assurance that NBN Co can acquire the information on priority assistance and medical alert services from wholesale customers. The ACCC considers that the WBA amendments provide further assurance that NBN Co will obtain the necessary information on these services. This is particularly in relation to priority assistance services as they are more likely to be provided by the NBN RSP.

However, given that medical alert services are generally provided by over-the-top service providers, the ACCC remains concerned that NBN Co may not have visibility of

⁵¹ NBN Co submission, February 2013, p.8

⁵² NBN Co's *Wholesale Broadband Agreement 2*, accessed via the NBN Co website on 19 December 2013

these services prior to conducting pull through. As a result, the ACCC considers that NBN Co may still unwittingly use a line supporting a medical alarm for pull through.

The ACCC notes that industry remains concerned about other aspects of the end-to-end process. For example, Optus and AAPT's submissions to the August consultation process raised concerns about industry engagement on service level commitments. Optus is particularly concerned about a lack of transparency over how pull through exception events will be dealt with:

“While there have been bilateral discussions between Telstra and NBN Co on the process of pull through, wholesale customers have had no input on required SLA or contingency plans for pull through exception events”⁵³

Telstra's new commitment to exercise its contractual rights for NBN Co performance of cable reinstatement and rectification equivalently between retail and wholesale lines provides greater assurance that NBN Co will be obliged to reinstate all cables used for pull through in a timely manner. However, industry has expressed concern as to the lack of transparency over these rights and obligations.

The ACCC considers that improved transparency over such matters is likely to provide industry with greater confidence in the end-to-end process and ultimately encourage wholesale customers and end-users to consent to NBN Co using pull through.

The ACCC considers that NBN Co could address remaining concerns about a lack of clarity through the publication of the proposed end-to-end operational document. By way of example, the operational document could provide that NBN Co contractors will promptly notify Telstra of an exception event. This would complement required measure 1(b) and further assist in minimising the service outage period caused by the exception event.

This document could also address:

- whether, except in the case of a complete migration event, NBN Co is obliged to ensure that the end-user has an active (copper network based) service before it leaves the premises.
- the steps that NBN Co will undertake to determine whether a medical alert service is provided to a premises.

⁵³ Optus submission, September 2013, p.1

Attachment A: Overview of pull through

The following is an updated version of the overview included in the ACCC's December discussion paper. This version reflects comments provided by NBN Co in its 25 February 2013 submission.

Update: NBN Co has also provided its own overview of the division of responsibilities between the parties involved in the pull through process at page 7 of its submission. NBN Co has indicated that its operational processes used for pull through will be subject to industry consultation.

NBN rollout: build drop phase

NBN Co fibre and Premises Connection Device will be installed to the premises at the time of the local network construction. NBN Co has indicated that it will not undertake pull through activities at this stage. *Update:* However, NBN Co installers will perform a preliminary test to determine whether the LIC could be used for pull through.

- Where it is apparent that the existing lead-in-conduit (LIC) cannot be used, even for pull through, the premises will be connected using aerial fibre or by installation of a new LIC.
- Where it is determined that the LIC *could* be used for pull through, the end-user will receive a notice indicating that the NBN connection could not be completed on the day and that the NBN connection can still occur but at a later date when the end-user submits an order for NBN service(s).



End-user places order for NBN connection: demand drop phase

At its discretion, NBN Co may declare a region 'Ready for Service' after 90 per cent of premises in the region are passed by NBN fibre. After this date, end-users can contact a retail service provider (RSP) to order an NBN service. When contacted by an end-user, the RSP will:

- Clarify whether the premises is NBN Serviceable by way of NBN service qualification.
- Be required to use reasonable endeavours to ask the end-user to indicate whether they provide consent for NBN Co to perform pull through and so have a temporary outage of their current copper or HFC services. *Update:* NBN Co has included a provision in its WBA requiring NBN RSPs to use reasonable endeavours to obtain end-user consent and pass this information on to NBN Co at the time a connection order is placed



Retail service provider places order with NBN Co

When the order is placed with NBN Co, the RSP will:

- Indicate whether the end-user has consented to the performance of pull through/temporary outages on their existing copper and HFC services for the installation of NBN Co equipment.
- Select an available date for the installation from the NBN Co booking system.
- *Update:* NBN Co has included a provision in its WBA requiring NBN RSPs to provide NBN Co with information on whether an priority assistance or medical alert services (or comparable services) are provided to end-user premises.
- Communicate the installation date to the end-user.
- Make arrangements for the provision of interim call diversion services if necessary.



NBN Co attends site to connect premise

The NBN Co installer:

- Undertakes an inspection of the LIC to determine whether they believe that pull through can be completed on the day.
- If the installer decides that pull through can be completed they will check *with Telstra* whether there are any cables that cannot be used for pull through.

It is at this point that Telstra will check whether a wholesale customer that provides services to the premises has signed the Deed Poll and therefore provided the necessary consents, releases and undertakings for pull through to occur (required measure 1(a)).

NBN Co has stated that it will use the information provided by Telstra in combination with other information that it may have available to it to determine whether a LIC cable can or cannot be used for pull through). NBN Co has confirmed that it:

- Does not intend to contact any Telstra wholesale customer at this time to confirm consent for pull through.
- Will not need to seek end-user consent for pull through on the day (because this will have been provided at the time the connection order is placed).
- Will not perform pull through at any premises where information provided by the RSP at the time the connection order was placed indicates that there is a priority assistance, medical alert or other comparable service provided to the premises.



If pull through can be undertaken

NBN Co will:

- Inform the end-user/nominated representative when an outage starts and ends.
- Reinstate the copper or HFC line used for pull through and test whether it works. NBN Co has indicated that the NBN Co installer will be expected to attempt to reconnect the cable used for pull through except in limited circumstances—for example, a complete migration event.
- Contact Telstra or a wholesale customer to test whether the reinstated line works.



If pull through fails

The ACCC understands that NBN Co will:

- Seek to install a temporary cable.
- Notify the end-user that pull through has not been successful.
- Contact Telstra to inform it that a “pull through exception event” has occurred.

It is at this point that Telstra will notify any affected wholesale customer that a “pull through exception event” has occurred. Telstra commits to notify wholesale customers within 4 hours of receipt of a notice from NBN Co in ninety per cent of cases and in all other cases within two business days (required measure 1(b))

- 1 Make arrangements to address service outage as soon as possible.
- 2 **Update:** NBN Co has emphasised that a pull through exception event may occur other than where pull through fails—for example, where an end-user has withdrawn their consent or where there is a force majeure event that stops the NBN rollout.

Attachment B: Required Measures and relevant regulatory requirements

<p>Required Measure 1(a): Process for obtaining consents and releases from wholesale customers for NBN Co to use pull through during the connection process</p>	
<p><i>The Migration Plan Principles</i></p> <ul style="list-style-type: none"> ▪ Section 8 – Disconnection of carriage services (General principle) ▪ Section 19 – Control of disconnection timing and processes ▪ Section 21 – Equivalence regarding disconnecting Telstra retail business units and wholesale customers (General principle) 	<p><i>Migration plan clauses</i></p> <ul style="list-style-type: none"> ▪ Clause 10.1 – Consents for Pull Through Activities
<p>Required Measure 1(b): Process for notifying Wholesale customers that pull through exception events have occurred</p>	
<p><i>The Migration Plan Principles</i></p> <ul style="list-style-type: none"> ▪ Section 8 – Disconnection of carriage services (General principle) ▪ Section 19 – Control of disconnection timing and processes ▪ Section 21 – Equivalence regarding disconnecting Telstra retail business units and wholesale customers (General principle) 	<p><i>Migration plan requirements</i></p> <ul style="list-style-type: none"> ▪ Clause 10.2 – Notification of a pull through exception event