Telstra Corporation Limited

Amended Draft Required Measure 1(b) – Pull Through Exception Event and Installation of Temporary Cable Notifications

Supporting submission

April 2014

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1 Background

On 20 December 2013, the ACCC directed Telstra to resubmit draft Required Measure 1 (**RM 1**), amended to take into account concerns raised by the ACCC in relation to draft RM1(b) (**December RM 1 Direction**). The ACCC was satisfied that draft RM 1(a) submitted on 13 August 2013 complies with the Migration Plan Principles but considered that draft RM 1(b) submitted at the same time did not comply with the Migration Plan Principles and should be further amended to take into account the ACCC's concerns.

Telstra now resubmits both draft RM1(a) and draft RM 1(b), with draft RM1(b) amended to take into account the ACCC's concerns. This submission explains how draft RM1(b) has been amended to take into account concerns raised by the ACCC in the December RM 1 Direction.

2 Telstra's Resubmitted draft RM1(b) Addresses the ACCC's Concerns

Annexure A sets out the matters raised by the ACCC in the December RM 1 Direction, and how Telstra has taken those matters into account in the resubmitted draft RM 1(b). Telstra believes it has addressed each of the concerns raised by the ACCC, by:

- Substantially reducing the timeframe within which Telstra will notify affected Wholesale Customers of a Notification Event, after the receipt of advice from NBN Co - the obligation is now to notify Wholesale Customers as soon as reasonably practicable, but in any event, within 2 Business Hours of Telstra being advised of a Notification Event by NBN Co in 90% of cases (and 4 Business Hours for the remaining 10% of cases);

- Modifying the language in the relevant provisions of draft RM 1(b) to make it clear that the timing of the notification to Wholesale Customers is an obligation that Telstra is required to meet; and

- Adjusting the reporting metric to reflect the new timeframes.

Telstra notes that the ACCC had suggested a potential timeframe of a 1-hour window for notifying Wholesale Customers. However, Telstra is unable to commit to that timeframe, given the uncertainty it faces with the potential volume of Notification Events that could be received at any given time, and the fact that the processes have not yet been tested or put into practice.

With these changes, we believe the ACCC can now be confident that Wholesale Customers will receive prompt notice of a Notification Event that may affect them.

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Annexure A – Telstra's Response to ACCC concerns

ACCC CONCERNS	TELSTRA RESPONSE
Draft RM1(a)	
No concerns raised	No amendment required.
Draft RM1(b)	
Equivalent notice to wholesale and retail customers 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. Telstra's notification commitment must ensure to the greatest extent practicable, that the timing of notification to wholesale customers is as close as possible to the time Telstra is notified by NBN Co.	Telstra remains of the view there is equivalence in the manner of notification because both Telstra Retail and Wholesale Customers can use the existing Telstra databases (accessible through business as usual interfaces and processes) to obtain information about Pull Through Exception Events as they are updated in the systems, following receipt of notification from NBN Co. Telstra Wholesale Customers will be able to access information in our systems within minutes via LOLS, however Telstra notes the ACCC considers that more is warranted for Wholesale Customers to be aware of the occurrence of a Notification Event. As a result, Telstra had included an additional notification to Wholesale Customers. Telstra has now amended draft RM1(b) to address the ACCC's outstanding concern around the timing of the notification. Telstra has reduced the timeframe for notification from 4 Business Hours (for 90% of cases) to "as soon as reasonably practicable, but in any event, within 2 Business Hours in 90% of cases and within 4 Business Hours in all remaining cases." As the notification processes have not yet been established between Telstra and NBN Co, and Wholesale Customers and Telstra, and we are unaware at this stage of the potential volume of Notification Events that could occur, Telstra is unable to commit to a timeframe of less than 2 Business Hours. In order to comply with the shorter 2 Business Hour timeframe, Telstra will advise the Wholesale Customer of the Notification Event and the service address, and will direct the Wholesale Customer to LOLS for details of the Notification Event. Telstra is unable to commit to its BAU communications process within the shortened timeframe of 2 Business Hours as none of the

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	involved parties have operational experience with Pull Through Exception events. However, once the parties have relevant operational experience, Telstra will endeavour to use its BAU process to communicate Notification Events and will work with Wholesale Customers over time to determine an appropriate communications process that is designed to meet the 2 Business Hour timeframe. Telstra notes that it does not control the timing of the receipt of notice of a Notification Event from NBN Co, and therefore Telstra cannot provide any assurance as to the overall timing of notification to Wholesale Customers from the time the Notification Event occurred. However, to the extent it is within our control, we believe the timing outlined should provide Wholesale Customers with the necessary advice to take action with their end-user, should they choose to do so, noting that the end-user is likely to already have been engaged on site in the process with NBN Co.
Notifications to promote continuity of service 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 ACCC is concerned that the proposed timeframe does not provide a clear commitment to meet the target timeframes and performance standards in practice.	Telstra has amended draft RM1(b) to address the ACCC's outstanding concern around the notification timeframe and the promotion of service continuity. The amended draft RM1(b) contains a much-reduced timeframe within which Telstra will notify Wholesale Customers. That timeframe is, as outlined above, "as soon as reasonably practicable, but in any event, within 2 Business Hours of Telstra being advised by NBN Co of a Notification Event to the Telstra help desk during its hours of operation as described below, in at least 90% of cases, and within 4 Business Hours in all remaining cases." Telstra has also changed the language of the clause, to ensure there is a clear commitment upon Telstra to meet these timeframes (see below).
Compliance and reporting 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.	Telstra has amended draft RM1(b) and removed the word "expects" to make it clear that Wholesale Customers will be notified as soon as reasonably practicable, but in any event in 90% of cases within 2 Business Hours of being advised by NBN Co of a Notification Event and in all remaining cases within 4 Business Hours of receiving notification from NBN Co. Telstra considers this is a clearer commitment to achieve the target levels set for its performance.

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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.	Telstra has also amended draft RM1(b) to include the following metric within the Quarterly Migration Plan Compliance Report to reflect the revised notification timeframe to be: "the percentage of Notification Events communicated to Wholesale Customers for the relevant Quarter in all Rollout Regions within (a) 2 Business Hours; and (b) 4 Business Hours, from Telstra receiving notification from NBN Co of the Notification Event for the affected Wholesale Customer."

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