Telstra Corporation Limited

Required Measure 1(a) – Pull Through Consents

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Contents

1 Background 2

2 Process for obtaining the Required Consents from Wholesale Customers 3

2.1 Overview 3

2.2 Briefing Materials 3

2.3 Contractual Documentation 3

2.4 Proposed engagement with Wholesale Customers 4

2.5 Recording of Wholesale Customer interaction 4

2.6 Recording of Required Consents 5

2.7 Withdrawal of Required Consents 5

3 End-user consent 6

4 Equivalence 6

5 Reporting 6

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1 Background

Under certain agreements between Telstra and NBN Co (**Definitive Agreements**), Telstra has agreed to give NBN Co access to its 'lead in conduits' (**LICs**), which are conduits connecting each Premises to a Pit in the street.

In connecting a Premises to its fibre network, NBN Co will try to 'push' its fibre optic cable through the LIC. However, where NBN Co (or its contractors) are unable to do so, they may determine if an existing copper cable or HFC cable in a LIC can be used to 'pull through' the new fibre optic cable (**Pull Through**). When a fibre cannot be pushed through, Telstra has agreed to allow NBN Co to use an existing copper cable or HFC cable, where practicable, to Pull Through the fibre.

When performing Pull Through, the existing cable is disconnected, attached to the new fibre cable and then used to draw the new fibre cable through the LIC. As a result, Pull Through always results in an outage on the service provided over the existing copper or HFC cable used as a pull through (including any soft dial tone). Once the new fibre cable is in place, the existing copper or HFC cable used to pull through generally will be reconnected if it is still required.

NBN Co's field personnel or contractors who are considering Pull Through at particular premises will examine the cables in the LIC and contact Telstra to request information about cables in the LIC to identify whether a cable can be used for Pull Through. Under the Definitive Agreements, Telstra is required to respond to NBN Co's requests within one hour.

For NBN Co to conduct Pull Through, it requires various consents, releases and undertakings (**Required Consents**) from the parties who acquire or provide services over the relevant cable. These Required Consents need to be obtained by different parties as follows:

- Telstra has provided its own general consents and releases directly to NBN Co under the Definitive Agreements to allow Pull Through on cables over which it provides services; and
- Telstra Wholesale must use reasonable endeavours to obtain the Required Consents in favour of NBN Co from its Wholesale Customers.

Additionally, NBN Co is expected to procure a consent by the end user to the use of Pull Through. This consent is not dealt with in this Required Measure, see the section entitled "End user consent" for more detail.

Where a copper cable in a LIC in which NBN Co is considering conducting Pull Through is used to provide services to a Wholesale Customer, Telstra must advise NBN Co, amongst other things, that the relevant LIC cannot be used for Pull Through unless all Telstra Wholesale Customers using cables in that LIC have provided the Required Consents.

As required by clause 19(b) of the Migration Plan Principles, Telstra identifies Pull Through as a known circumstance 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 from a separating network in a fibre rollout region following the region ready for service date and before the disconnection date for that fibre rollout region. A Wholesale Customer may decide, based on concerns about this consequence of Pull Through, not to give the Required Consents.

This Required Measure establishes a process to seek the Required Consents from its Wholesale Customers and record that information in its systems so that it can respond to NBN Co in a timely manner about whether a cable is suitable for Pull Through.

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2 Process for obtaining the Required Consents from Wholesale Customers

2.1 Overview

Telstra will seek the Required Consents from each Telstra Wholesale Customer on an upfront, global basis, i.e. in relation to all wholesale services supplied to that customer from time to time on Telstra's Copper Network. This will mirror the consent that Telstra has already given to NBN Co in its capacity as a service provider. That way, Telstra needs only to check whether a Wholesale Customer has given the Required Consents generally, not whether they have given it for a specific cable. Given the one hour window in which Telstra must respond to NBN Co Pull Through inquiries, this is the most practical and fair way to gather and administer the Required Consents.

2.2 Briefing Materials

Given the complex nature of Pull Through, Telstra will make Briefing Materials available to Wholesale Customers on Pull Through covering such things as: What is Pull Through? When does it occur? What are the benefits? What happens if something goes wrong? These Briefing Materials will be made available on the Telstra Wholesale Customer Portal (**TWCP**) and the Telstra Wholesale website, telstrawholesale.com. Telstra will also provide written notification to each Telstra Wholesale Customer advising that this information is available and can be discussed with their Telstra Wholesale Account Manager or Business Operations Manager. Telstra will provide one-on-one briefings on Pull Through to Wholesale Customers with a significant number of potentially impacted services.

2.3 Contractual Documentation

Telstra will provide its Wholesale Customers with a draft standard Deed Poll in favour of Telstra and NBN Co containing the Required Consents promptly after the ACCC approves this Required Measure. Telstra (via its Account Managers and Business Operations Managers) will be available to discuss the Deed Poll with Wholesale Customers and any questions Wholesale Customers may have. Telstra will also provide execution copies of the draft standard Deed Poll to Wholesale Customers on request. In addition to enabling Wholesale Customers to provide the Required Consents and hence allow Pull Through on cables carrying their services, the draft standard Deed Poll will also address four other issues in relation to Pull Through:

- It will enable Wholesale Customers to provide the Required Consents for other members of their corporate group as well as identify other former company names for their group in whose names services may still be registered in Telstra's systems. This ensures that if a customer has changed names or acquired other entities but has not provided updates for each individual service, it can still provide the Required Consents and allow Pull Through on cables where services are registered in Telstra's systems to those former entities;

- It will allow Wholesale Customers to terminate the Deed Poll at any time if they wish to withdraw the Required Consents – the termination will take effect from the date effected within our systems (which will be within 10 Business Days after receipt of the notice). Termination will not affect Pull Through activities that have already commenced;

- It will allow Wholesale Customers to sign the Deed Poll prior to approval of this Required Measure, as it will include a clause to allow Telstra to terminate the Deed Poll if this Required Measure is amended and approved in a different form such that

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it is in conflict with the terms of the Deed Poll; and

- It will be the mechanism for obtaining operational contacts and contact details to be used in the event that there is a Pull Through Exception Event (i.e. if there is an issue when Pull Through is conducted). Wholesale Customers will need to provide and keep updated the relevant contact details for Telstra to use when notifying customers of a Pull Through Exception Event.

Telstra will also request Wholesale Customers to sign a consent form to enable Telstra to disclose their name to NBN Co as the Wholesale Customer with services carried on a particular cable (**Disclosure Consent**). This is to address the scenario where the Wholesale Customer has not given the Required Consents and NBN Co may want to conduct Pull Through on one of the cables carrying that Wholesale Customer's services. Telstra has agreed with NBN Co, where possible, to disclose the name of the relevant Wholesale Customer so NBN Co can assess if they have separately obtained consent from that customer. The Disclosure Consent will include agreement from the Wholesale Customer that Telstra can inform the ACCC that the customer has consented to the Deed Poll, or not consented to the Deed Poll as the case may be, as part of Telstra's reporting obligations under this Required Measure to the ACCC.

Telstra will separately record in its systems whether this consent has been obtained.

Telstra will provide the ACCC with copies of the draft standard Deed Poll and the Disclosure Consent upon request.

2.4 Proposed engagement with Wholesale Customers

As noted above, Wholesale Customers will be notified when the Pull Through materials are made available on TWCP and telstrawholesale.com and Telstra will provide one-on-one briefings on Pull Through to Wholesale Customers with a significant number of potentially impacted services. Telstra will also provide Wholesale Customers with a draft standard Deed Poll and the Disclosure Consent for their consideration promptly after approval of this Required Measure by the ACCC. Telstra will be available to discuss both the Briefing Materials and the Contractual Documentation with Wholesale Customers. Further, Telstra, via its Wholesale Account Managers and Business Operations Managers, will be actively contacting Wholesale Customers to seek their execution of the Disclosure Consent and the Deed Poll.

Once this Required Measure is approved by the ACCC, Telstra (via its Telstra Wholesale account teams) will be actively engaging with Wholesale Customers to request that they execute the Deed Poll and will be generating execution copies of the Deed Poll. Execution copies will also be available to Wholesale Customers prior to the Required Measure being approved if requested.

2.5 Recording of Wholesale Customer interaction

In line with current practices used to support deployment of critical customer communications, Nexus (Telstra's Customer Relationship Management system) will record all key Wholesale Customer interactions. This will include the following:

- GMD notifications of Pull Through materials;

- which Wholesale Customers have been invited to and have had briefings on Pull Through;

- when execution copies of the Deed Poll have been sent out;

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- Which Wholesale Customers have refused to provide the Required Consents or have advised they are not yet ready to sign;

- The receipt of signed Disclosure Consent from a Wholesale Customer; and

- The receipt of signed Deed Poll from a Wholesale Customer.

By tracking the information as identified above, this will allow the Telstra Account team to follow up Wholesale Customers in an appropriate manner and encourage execution of the Deed Poll.

2.6 Recording of Required Consents

If a Wholesale Customer signs the Disclosure Consent or the Deed Poll, the document will be returned to the Telstra Wholesale Account Manager or Business Operations Manager and processed in line with current operational practice for the registration of contracts by the Telstra Wholesale Contracts team. Details of the consent(s) given will be recorded within Nexus as part of the registration process. This data will indicate where the Deed Poll has been signed and where the Disclosure Consent has been signed.

Nexus will also contain a perpetual link to the stored electronic copy of the Deed Poll in Telstra's Enterprise Document Management System (**EDMS**). The details of the consent(s) provided will be included in the Wholesale Data Repository (**WDR**) update provided from Nexus each day and uploaded into the NBN Transition Tool (**NTT**), a database tool which includes functions such as address-matching, NBN rollout scheduling and customer migration tracking. It is anticipated that there will be a daily data feed from WDR to NTT which will ensure that consent details are consistently updated. Access to NTT will be regulated by the provisions of the NBN Information Security Plan Required Measure.

The default position in WDR and NTT will be set to No – no Pull Through Activities and no disclosure of the Wholesale Customer's name, until the relevant signed documentation has been provided by the Wholesale Customer and the details are updated in our systems.

2.7 Withdrawal of Required Consents

Telstra will allow Wholesale Customers to withdraw the consent they have provided to Pull Through activities at any point if they have any concerns relating to the operation of Pull Through (or for any other reason) by terminating the Deed Poll. Withdrawal of consent relates to future Pull Through Activities commenced after the termination of the Deed Poll is noted in NTT. Termination of the Deed Poll must be effected by following the formal notice procedures provided in the Deed Poll and advising the Telstra Wholesale Account team in writing. Once received the notice would be referred to the Telstra Wholesale Contracts team who would process the withdrawal of consent in the same way as the original provision of consent – scanning the advice and storing in EDMS, updating Nexus with the new consent status and associating the perpetual link to EDMS for the termination of the Deed Poll in Nexus.

Telstra will require 10 business days in order to update its systems following receipt of a notice of termination. The withdrawal of Pull Through consent will not come into effect until Telstra has recorded the withdrawal in its systems.

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3 End-user consent

This Required Measure does not deal with NBN Co's process for its access seekers to inform NBN Co about their end user's instructions in respect of the use of Pull through (if any), or to provide end users' consent to the use of Pull Through.

However, the Required Consent clarifies that the releases and indemnities in NBN Co's and Telstra's favour will not apply to any loss or damage suffered as a result of Pull Through where NBN Co or its contractors conduct Pull Through on a cable which is a "Non-Removable Cable" (a "Non-Removable Cable" includes a cable for which NBN Co does not have the consent of the end-user to conduct Pull Through). This limitation on the releases and indemnities in the Required Consents will apply whether the Wholesale Customer giving the Required Consents is the access seeker of NBN Co or not.

Telstra anticipates that NBN Co will seek to procure this end user consent via a contractual process set out in the relevant NBN access agreement.

Wholesale Customers in their capacity as service providers on the NBN should discuss with end users migrating to the NBN with that Wholesale Customer the consequences of the potential use of Pull Through, in particular where the end user is a Priority Assistance customer and/or where the end user has a medical alert device attached to their current Copper Service.

Telstra retains some contractual rights in respect of NBN Co's activities during Pull Through (in particular, in respect of Pull Through Exception events). To the extent that Telstra has a contractual right to seek performance by NBN Co of its obligations to perform cable rectification activities in respect of a cable used for pull-through or a temporary cable, Telstra will enforce those rights equivalently (regardless of whether the end user impacted is a customer of Telstra Retail or a Telstra Wholesale customer).

4 Equivalence

Telstra has provided to NBN Co similar releases and indemnities in NBN Co's favour in respect of NBN Co conducting Pull Through activities.

5 Reporting

Telstra will report to the ACCC on a quarterly basis, as at the end of each quarter:

- the number of Wholesale Customers that have consented to Pull Through;
- the number of Wholesale Customers that have not consented to Pull Through; and
- the number of Wholesale Customers that withdrew their consent to Pull Through during the quarter.

These three metrics will be reported confidentially in Telstra's Migration Plan Quarterly Report, commencing from the first full quarter after the ACCC accepts this Required Measure.

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