



15 September 2020

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Australian Competition and Consumer Commission  
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Dear Mr Riordan,

**Request for new forbearance to be applied in respect of the Managed Disconnection arrangements for not nbn-serviceable premises**

Telstra and nbn co have recently agreed to new commercial arrangements for premises impacted by ongoing nbn-serviceability challenges in the lead-up to and following their Rollout Region Disconnection Date (**RRDD**). Telstra is now requesting a new forbearance from the ACCC to provide for the introduction of these new managed disconnection arrangements. Both Telstra and nbn co believe these new arrangements will deliver an overall improved outcome for impacted Wholesale Customers and Telstra Retail (**RSPs**) and their end-customers.

Since May 2018, Telstra has raised a number of requests to the ACCC for forbearance from standard managed disconnection arrangements where premises in Service Continuity Regions (**SCRs**) have continued to remain not nbn-serviceable, following RRDD passing. The ACCC approved these requests in support of the service continuity objective for end customers. These arrangements were then incorporated in our Migration Plan variation proposal, as approved by the ACCC in February 2020. Throughout this time, Telstra has advised the ACCC (and RSPs in separate communications), that Telstra would continue to work with nbn co, to develop and agree alternative long-term disconnection arrangements for not nbn-serviceable premises. At present, premises that have remained not nbn-serviceable beyond their RRDD have been included in the COVID-19 managed disconnection arrangements, consistent with the larger cohort of premises impacted by COVID-19. We note that the first RRDD scheduled to arise in association with the COVID-19 managed disconnection recommencement arrangements, occurred on 11 September 2020. As a result we will withhold any not-nbn serviceable premises from managed disconnection, pending the ACCC's decision.

A summary of the newly proposed arrangements is as follows:

- nbn co will notify Telstra as to each premise that is eligible under the new arrangements, and in turn, Telstra will notify RSPs.
- Premises that become nbn-serviceable within the 3-month period up to RRDD, where nbn co has not received an NBN Initial Connection Order prior to RRDD, will be provided a timeframe equivalent to the In-Train Order (**ITO**) Period provided to Phase 2 ITO Premises (i.e. 150 Business Days post RRDD before service disconnection will commence).



- Where the premise only becomes nbn-serviceable following RRDD, service disconnection will complete by the later of the following milestones:
  - i. Equivalent to conclusion of the ITO period (where disconnection commences from 150 Business Days post RRDD); or
  - ii. 90 Business Days after the date Telstra receives notification from nbn co. (Note: in turn Telstra intends to advise RSPs no later than 10 Business Days after receipt of that notification so that RSPs will receive at least 80 Business Days notice).
- In any event, Telstra will service disconnect all remaining premises notified by nbn co under these arrangements by 29 April 2022, whether or not they are nbn-serviceable.

Together with nbn co, we consider these new arrangements will:

- Further support the service continuity objective by deferring the managed disconnection obligation at in-scope premises that are not capable of migrating to nbn;
- Provide industry with certainty as to long-term arrangements and timeframes that will apply to the disconnection of not nbn-serviceable premises;
- Allow RSPs and their end-customers at impacted premises sufficient opportunity to arrange for their services to migrate to the nbn; and,
- Be easier to implement and operationally administer by comparison to the previous interim extension arrangements, which in turn will allow for improved reporting and transparency with RSPs.

We note nbn co is the interim Statutory Infrastructure Provider (SIP) accountable for resolving the serviceability status of premises and the associated timeframes in which this will occur.

### **Further detail on the newly proposed arrangements**

The new arrangements will introduce the following:

**‘Newly Serviceable Premises’** are premises in the Fixed Line Footprint in a Rollout Region, specifically notified by nbn to Telstra within 3 Business Days after the RRDD, on the basis:

- a) that the premises became NBN-Serviceable during the 3-month period prior to the RRDD and remains NBN-Serviceable at the RRDD; and
- b) nbn co has not received an NBN Initial Connection Order for provision to an NBN Customer of an NBN Service to that Premises prior to the RRDD;

Newly Serviceable Premises will be notified to RSPs by Telstra in accordance with standard arrangements following RRDD (e.g. notification of the Final Disconnection List).

**‘Complex Ready to Connect (RTC) Premises’** are premises in the Fixed Line Footprint in a Rollout Region that are specifically notified by nbn co to Telstra, on the basis they:

- a) are either not nbn-serviceable as at the RRDD or become not nbn-serviceable at any point after the RRDD; or
- b) were previously an Extended SCR Premise (in accordance with clause 15.9 of the Migration Plan) and remain not NBN-Serviceable; or
- c) as otherwise agreed between nbn co and Telstra are Complex RTC Premises.



Similar to Newly Serviceable Premises above, Complex RTC Premises will also be notified to RSPs by Telstra in accordance with standard arrangements following RRDD. nbn co will also introduce a monthly process to notify Telstra which Complex RTC Premises have subsequently become NBN-Serviceable, whereupon they will be known as a '**Serviceable Complex RTC Premises**'. In turn, Telstra will also notify RSPs on a monthly basis.

Following the notification to RSPs by Telstra, the service disconnection of Complex RTC Premises and Serviceable Complex RTC Premises will proceed on the earlier of the following milestones:

- a) specific to Serviceable Complex RTC Premises only, will be the later of the date that is (which will be known as the '**Extended Disconnection Date**):
  - i. 150 Business Days post RRDD; or
  - ii. 90 Business Days after the date Telstra receives notification from nbn co.  
(Note: in either scenario, Telstra will notify the RSP the relevant Extended Disconnection Date.
  
- b) the 'Single Extended Disconnection Date', being 29 April 2022.

As per standard arrangements, the deferral of managed disconnections for these premises will not prevent their disconnection at an earlier date in accordance with any RSP initiated request.

Appendix 1 below summarises these respective timelines and milestones.

#### Next Steps:

Please note, in light of the RRDD having recently passed on 11 September 2020, we have decided to communicate details of these proposed arrangements to RSPs, in advance of the ACCC's decision whether to grant forbearance. Our communication to RSPs specifically state that should the ACCC have any objection or concerns, then the arrangements as communicated may need to be amended.

Telstra intends to submit a variation to its Migration Plan reflecting this proposal for the ACCC's approval at a future time. We confirm the new arrangements above are intended to replace the arrangements that currently exist at clause 15.9 of Migration Plan (i.e. Extended SCR Premises), which in any event are no longer operationally available. The receipt of the forbearance from the ACCC will provide us with the necessary protection under the Migration Plan to enable us to operationally implement these arrangements.

Should you have any queries about this matter please contact Peter Walsh (03 8694 3854 or [peter.walsh.2@team.telstra.com](mailto:peter.walsh.2@team.telstra.com)).

Yours sincerely

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Appendix 1.

