



TELSTRA LIMITED

Variation Proposal to Telstra's Structural Separation Undertaking and Migration Plan

Submission in support

6 February 2025



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01 Executive Summary

Telstra submits the following proposal to vary the Structural Separation Undertaking (SSU) Migration Plan (the Plan) for the Australian Competition and Consumer Commission's (ACCC's) approval (the Varied SSU and Plan).

The amendments to the SSU and the Plan seek to streamline and simplify the current reporting requirements, to better reflect the residual risk associated with these regulatory instruments. An additional amendment has been included in the Varied Plan that proposes to continue the disconnection arrangements for In-Train Order (ITO) Premises that have been in operation since 2016.

Following the Designated Day on 1 July 2020, Telstra has maintained an effective program to enable us to achieve a high level of compliance with our remaining obligations under the SSU to:

- not connect new copper or HFC services to premises in NBN Co fixed line areas that were disconnected prior to the Designated Day.
- maintain a Separation Compliance Program that addresses our commitments in Part C of the SSU.
- provide quarterly Migration Plan Compliance Reports and annual SSU Compliance Reports (in which we also incorporated Migration Plan compliance) to the ACCC.

In addition to the above, we have also continued to pro-actively address issues relating to potential customer harm, in seeking to ensure end-users' service continuity is maintained on legacy and that they are afforded reasonable opportunity to migrate prior to managed disconnection.

As the nbn fixed line rollout is nearing its finalisation, the number of premises with active services that have not migrated has rapidly diminished. In June 2024, Telstra completed the migration of all customers from its legacy HFC network and is now in the process of decommissioning that network. In relation to our legacy Copper Network, as at mid-October 2024, we estimate that there are approximately:

- [c-i-c begins] ¹ [c-i-c ends] with remaining active services within a Rollout Region with an existing Disconnection Date.
- [c-i-c begins] [c-i-c ends] with active services that Telstra considers are geospatially located within the nbn Fixed Line Footprint polygon, however, do not yet have a Disconnection Date.

With regard to the Premises with an existing Rollout Region Disconnection Date, those dates currently extend to 8 May 2026. Whilst customers may voluntarily request to disconnect their services at any point prior to the Disconnection Date, the current allocation of Premises as at mid-October 2024 is as follows:

Rollout Region Disconnection Dates:	Approximate Current Volume of Premises
Occurring within 6 months	[c-i-c begins] [c-i-c ends]
Occurring between 6 to 12 months	[c-i-c begins] [c-i-c ends]
Occurring between 12 to 18 months	[c-i-c begins] [c-i-c ends]

The numbers of remaining Premises with Copper Services within the nbn Fixed Line Footprint continues to reduce and are proportionally insignificant to the nearly 10 million Premises Telstra has disconnected since the Plan came into effect in March 2012. Accordingly, we consider the practical efficacy of providing quarterly and annual reporting in accordance with the current arrangements is also reduced.

¹ The disclosures contained within the references marked 'c-i-c' are commercial in confidence. This information is sensitive to Telstra and should not be shared with the public or any third parties without consent. Whilst these volumes are redacted within our public submission, Telstra can advise that the remaining estimated volumes represent less than 1% of the total Premises that have already been disconnected to date under the Migration Plan.



As such, as outlined in this submission, Telstra proposes to streamline and simplify the current reporting and disclosure requirements associated with both the SSU and the Plan, which were put in place at the inception of these regulatory instruments and have not been subject to a variation since 2016.² If approved by the ACCC, the revised arrangements will require Telstra to provide reporting to the ACCC at the end of each financial year that contains:

- the number of Reconnected Copper Paths or HFC Lines at Premises which have been Passed and that had been permanently disconnected in breach of clause 19.1(a) of the Migration Plan; and
- a summary of any breaches of the SSU or the Migration Plan identified by Telstra during that financial year.

Telstra submits that the Varied Plan complies with the *Telecommunications (Migration Plan Principles) Determination 2015 (MPPs)* and notes that the modified reporting requirements under the Varied SSU and Plan continue to support the ACCC's obligations under section 105C *Telecommunications 1997 (Cth) (Telecommunications Act)* to monitor, and report each financial year to the Minister on, breaches of the SSU. Further, the operational change to the Plan promotes the objectives of minimising disruption to end users and promoting service continuity, to the extent this is in Telstra's control.

02 Proposed reporting & disclosure amendments to the SSU

The following table summarises the proposed reporting and governance related amendments within the marked-up version of the Varied SSU, together with the associated rationale for the change:

Relevant Section of SSU	Proposed amendment and associated rationale:
Clause 23.1 – Telstra Audit Committee and Director of Equivalence	<p>Proposed Amendment:</p> <ul style="list-style-type: none"> • Removing the requirement to have a Director of Equivalence from the 1 January 2025 via a new clause 23.1(e). <p>Rationale:</p> <ul style="list-style-type: none"> • We consider the continuing need for a dedicated person appointed to oversee overall compliance has significantly diminished as Part D of the SSU is no longer in operation. • Similar to other regulatory instruments Telstra is subject to, material compliance matters would be reportable to both the ACCC and to our Audit Committee on a timely basis by appropriately senior personnel in accordance with the nature of the matter and the line of responsibility.
Clause 23.3 – Monthly compliance report in relation to equivalence issues	<p>Proposed Amendment:</p> <ul style="list-style-type: none"> • Clarification that the monthly compliance report is no longer required via a new clause 23.3(d). <p>Rationale:</p> <ul style="list-style-type: none"> • This reporting requirement relates to the interim obligations under Part D of the SSU, which ceased to have effect at the start of the Designated Date.
Clause 23.5 – Supply of Equivalence Compliance Program to the ACCC	<p>Proposed Amendment:</p> <ul style="list-style-type: none"> • Clarification that Telstra does not need to supply updated documents about the Equivalence Compliance Program via an amendment to clause 23.5(c). <p>Rationale:</p> <ul style="list-style-type: none"> • This disclosure requirement relates to the interim obligations under Part D of the SSU, which ceased to have effect at the start of the Designated Date.
Clause 23.6 - Director of Equivalence to prepare Annual Equivalence Report for Audit Committee	<p>Proposed Amendment:</p> <ul style="list-style-type: none"> • Clarification that the Annual Equivalence Report is no longer required via a new clause 23.6(c). <p>Rationale:</p> <ul style="list-style-type: none"> • We consider that it is no longer necessary to continue to submit an annual report to our Audit Committee given that, similar to other regulatory

² On 20 July 2016, the ACCC approved amendments to clause 26.1 of the Plan proposed by Telstra in relation to the disconnection related metrics, which better reflected the disconnection milestones associated with the in-place arrangements.



Relevant Section of SSU	Proposed amendment and associated rationale:
	instruments, we are able to provide our Audit Committee with details of any material matters on a proactive basis.
Clause 23.7 - Disclosure of equivalence performance in annual reports	<p>Proposed Amendment:</p> <ul style="list-style-type: none"> Clarification that Telstra's annual report does not need to include a summary of the findings of the relevant Annual Equivalence Report via an amendment to clause 23.7. <p>Rationale:</p> <ul style="list-style-type: none"> Since this obligation first came into effect, the findings have not been finalised in time for inclusion in the annual report. Further, the current status of the SSU is not a matter of major interest to our investors or other interested parties who seek to utilise our statutory annual reports.
Clause 23.8 - Separation Compliance Program	<p>Proposed Amendment:</p> <ul style="list-style-type: none"> Clarification that Telstra does not need to supply updated documents about the Separation Compliance Program via a clarification to clause 23.8(d). <p>Rationale:</p> <ul style="list-style-type: none"> Telstra will continue to consult with the ACCC about the Separation Compliance Program. However, we don't foresee any material changes to the most recent version of the Separation Compliance Program we provided to the ACCC on 26 August 2024, whilst our obligations under the Part C of the SSU and the Plan remain operational.
Clause 24.2 - Annual Compliance Report	<p>Proposed Amendment:</p> <ul style="list-style-type: none"> Replacing the existing Annual Compliance Reporting obligation with a simplified Annual Compliance Reporting obligation for Financial Year 2024/25 and each subsequent Financial Year via a new clause 24.2(c). There is also a consequential amendment to clause 24.2(b). <p>Rationale:</p> <ul style="list-style-type: none"> The current SSU Annual Compliance Report obligation includes references to various reporting obligations that are no longer operationally relevant. We propose to provide the ACCC with a simplified and streamlined Annual Compliance Report, based upon any breaches of the provisions of the SSU still in operation that have come to our attention during that Financial Year, together with an explanation of the identified cause of the breach.

2.1. Consistency with the Telecommunications Act

As the new simplified annual report will include details of any identified breach by Telstra of the remaining operational provisions of the SSU, we consider that the proposed amendments to the reporting and disclosure requirements under the SSU will still allow the ACCC to fulfil its monitoring and reporting requirements under section 105C of the Telecommunications Act.

03 Proposed reporting amendments to the Plan

The following table summarises the proposed reporting related amendments within the marked-up version of the Varied Plan, together with the associated rationale for the change:

Relevant Section of Plan	Proposed amendment and associated rationale:
Clause 26.1 – Establishment of performance standards	<p>Proposed Amendment:</p> <ul style="list-style-type: none"> On, and from, 1 January 2025, removing the requirement to collect and report on the results of the performance measures / metrics established under clause 26.1 as part of the Migration Plan Compliance Report via a new clause 23.1(e). <p>Rationale:</p> <ul style="list-style-type: none"> The Migration Plan Compliance Report currently requires dedicated personnel to prepare highly prescriptive and detailed metrics each Quarter. We consider the output is no longer highly informative, having regard to the significant decline in the level of operational activity.



Relevant Section of Plan	Proposed amendment and associated rationale:
Clause 26.2 – Director of Equivalence to oversee preparation of a Migration Plan Compliance Report	<p>Proposed Amendment:</p> <ul style="list-style-type: none"> On, and from, the 1 January 2025 the existing Migration Plan Compliance Report is to be replaced with a simplified annual reporting obligation via a new clause 26.2(e) and(f). The requirement to provide the Migration Plan Compliance Report for the current Quarter commencing 1 October 2024 in accordance with the current reporting obligation has been grandfathered in a new clause 26.2(g). <p>Rationale:</p> <ul style="list-style-type: none"> This simplified reporting requirement requires we instead report: <ul style="list-style-type: none"> The number of Copper Paths reconnected in contravention of clause 19.1(a) (i.e. reflecting the key residual risk); and A summary of any other identified breach of the Plan, including an explanation of the identified cause. To align with the SSU, these revised reporting arrangements are proposed be prepared in respect of each financial year and submitted within 90 business days of the financial year-end. To ensure there are no gaps in reporting, the first annual Migration Plan Compliance Report prepared will encompass the entire Financial Year commencing 1 July 2024.
Clause 28 – Compliance	<p>Proposed Amendment:</p> <ul style="list-style-type: none"> Clarification to clause 28(a) that the role of Director of Equivalence will cease to exist from 1 January 2025. <p>Rationale:</p> <ul style="list-style-type: none"> This change aligns with the similar change in the Varied SSU.
Schedule 3, Required Measure (RM) 2, clause 8 – Reporting	<p>Proposed Amendment:</p> <ul style="list-style-type: none"> Consequential amendments to the Schedules of the Plan to clarify that clauses that reference providing a Migration Plan Compliance Report on a quarterly basis have no application for the Quarter commencing 1 January 2025 or any subsequent Quarter. <p>Rationale:</p> <ul style="list-style-type: none"> In relation to: <ul style="list-style-type: none"> Disconnection activity (RM 2 and RM 3), the residual disconnection activity will not be significant, and that any identified will be reportable under the revised reporting arrangements. Pull through activity (RM 1(a) and RM (b)), no pull-through events have ever operationally arisen under the scope of the Plan. Disconnection of Special Services following Special Service Disconnection Date (RM 5A and 5D), all in-scope Special Services are disconnected.
Schedule 3, RM 3, clause 7 – Reporting	
Schedule 7, RM 1(a), clause 5 – Reporting	
Schedule 7, RM 1(b), clause 6 – Reporting	
Schedule 7, RM 5A, clause 12 – Reporting	
Schedule 7, RM 5C, clause 12 - Reporting	

3.1. Consistency with the Migration Plan Principles

We consider that the proposed amendments contained in the revised Plan are a logical evolution that better reflect the residual risk, having regard to the current status of disconnections of in-scope services, and still align with the relevant procedural principle 38. That is, the new proposed reporting framework:

- Addresses the need for timely and regular reporting on compliance to ACCC in accordance with a planned framework.
- Does not impact our ability to continue to comply with the general principles.
- Provides for a copy of the Migration Plan Compliance Report to be provided to the Minister, if it is the Minister's preference.
- Addresses the need to provide sufficient information to monitor compliance and the overall effectiveness of the Plan, by focusing on reconnections activity, together with any breaches of other operational obligations.



04 Proposed operational amendments to the Plan

The following table summarises the proposed operational amendments within the marked-up version of the Varied Plan and associated rationale, to continue managing ITO arrangements consistent with the arrangements first implemented in 2016:

Relevant Section of Migration Plan	Proposed amendment and associated rationale:
Clause 15.1A – Disconnection of In-Train Order Premises in Rollout Regions	<p>Proposed Amendment:</p> <ul style="list-style-type: none"> Amend the expiry date from 30 June 2022 to 30 June 2026 via a clarification to clause 15.1A(b). <p>Rationale:</p> <ul style="list-style-type: none"> This amendment aligns with the recent commercial agreement with NBN Co under Definitive Agreements. The extension assists to provide industry participants with continued confidence that there will be appropriate time to migrate customers in a way which continues to promote service continuity for end users.
Clause 15.1 – Disconnection of In-Train Order Premises in Rollout Regions	<p>Proposed Amendment:</p> <ul style="list-style-type: none"> Amend the commencement date from 1 July 2022 to 1 July 2026 via a clarification to clause 15.1. <p>Rationale:</p> <ul style="list-style-type: none"> This amendment is required as a result of the extension of the Phase 1 / Phase 2 ITO arrangements immediately above. An additional benefit of delaying clause 15.1 coming into effect is that it will also avoid industry participants needing to make any changes to their systems and processes at this late stage.
Schedule 3, RM 2, Clause 6 – Disconnection of In-Train Order Premises	<ul style="list-style-type: none"> These are consequential amendments RM 2 clauses 6.2, 6.3 and 6.4, RM3 clauses 5.2, 5.3 and 5.4 and to definition of the ITO Period within the Dictionary, as a result of the extension of the Phase 1 / Phase 2 ITO arrangements.
Schedule 3, RM 3, Clause 5 – Disconnection of In-Train Order Premises	
Schedule 10 – Dictionary	

4.1. Consistency with the Migration Plan Principles

We consider the proposed variation is consistent with the MPPs and supports the disconnection of fixed-line carriage services to occur in a way that promotes the MPPs – particularly general principle 10 and specific principle 12.

General principles 10(1)(b) and 10(1)(c) respectively require that, to the extent it is in Telstra's control, disconnection occurs in way that minimises disruption to the supply of fixed-line carriage services and, to the greatest extent practicable, gives a Wholesale Customer autonomy over certain decisions, including timing of disconnection. We consider, by comparison to the alternative arrangements under clause 15.1 of the Plan, that the additional timeframes available to Phase 2 ITO Premises assist with both minimising service disruption and giving Wholesale Customers greater autonomy over the timing of disconnection.

In particular, the proposed variation supports Specific Principle 12(6)(a) by continuing to provide RSPs with an improved opportunity to migrate their customers to the nbn whilst still allowing disconnection as soon as reasonably practicable following 120 BDs post Disconnection Date (i.e. in this case the maximum period before service disconnection commences, is from 150 BDs for Phase 2 ITO Premises).



Overall, and in line with the ACCC's prior acceptance of the Phase 1 / Phase 2 ITO arrangements, the proposed variation provides industry with continued confidence that there will be appropriate time to migrate customers in a way which continues to promote service continuity for end users (particularly for complex Premises or Premises that are connected to the nbn later in the migration window) and minimises disruption to end-user services by continuing to provide a greater number of Premises more time before managed disconnection.