

Commonwealth of Australia

Telecommunications Act 1997

Telecommunications (Migration Plan—Specified Matters) Instrument 2011

I, STEPHEN MICHAEL CONROY, Minister for Broadband, Communications and the Digital Economy, make the following Instrument under subsections 577BC(3) and (4) of the *Telecommunications Act 1997*.

Dated 23 June 2011

STEPHEN CONROY

Minister for Broadband, Communications and the Digital Economy

Part 1 Preliminary

1 Name of Instrument

This Instrument is the *Telecommunications (Migration Plan—Specified Matters) Instrument 2011*.

2 Commencement

This Instrument commences on the later of:

- (a) the commencement of the Migration Plan Principles; and
- (b) the day after it is published on the Department's website in accordance with subsection 577BC(6) of the Act.

3 Definitions

(1) In this Instrument:

Act means the *Telecommunications Act 1997*.

declared service has the same meaning as in section 152AL of the *Competition and Consumer Act 2010*.

eligible service has the same meaning as in subsection 152AL(1) of the *Competition and Consumer Act 2010*.

Migration Plan Principles means the *Telecommunications (Migration Plan Principles) Determination 2011*.

- (2) For the purposes of this Instrument, each of the following is a **no-order disconnection premises**:
- (a) a premises in a fibre rollout region that Telstra disconnects from a copper network without having received an order before the disconnection date for that region from its retail customer or wholesale customer to disconnect any remaining fixed-line carriage services (other than special services or special service inputs) supplied to that premises from that network;
 - (b) a premises in a fibre rollout region that Telstra disconnects from a hybrid fibre-coaxial network without having received an order before the disconnection date for that region from its retail customer or wholesale customer to disconnect any remaining fixed-line carriage services (other than special services or special service inputs) supplied to that premises from that network.
- (3) Unless the contrary intention appears, expressions used in this Instrument and in the Migration Plan Principles have the same meaning in this Instrument as in the Migration Plan Principles.

Part 2 Specified matters

Note 1 Subsection 577BC(3) provides that a draft or final migration plan may contain provisions dealing with such other matters (if any) as are specified in a written instrument made by the Minister.

Note 2 Subsection 577BC(4) provides that a draft or final migration plan must not contain provisions dealing with such matters (if any) as are specified in a written instrument made by the Minister.

4 Specified matters that a migration plan may deal with

For the purposes of subsection 577BC(3), each of the matters in table 1 is specified as a matter that provisions contained in a migration plan may deal with.

Table 1

Item	Matter
1	Restrictions on the supply of fixed-line carriage services to a premises in a fibre rollout region prior to the disconnection date for that fibre rollout region

2	Processes that allow the ACCC, the independent telecommunications adjudicator and wholesale customers to request Telstra to review any restrictions under item 1
3	The conduct of a review under item 2
4	Actions to be taken by Telstra following a review under item 2
5	A process for wholesale customers to access Telstra's facilities to remove their equipment following disconnection
6	The disconnection of special services and special service inputs
7	A process for wholesale customers to nominate wholesale carriage services as special service inputs
8	A requirement for Telstra to advise the ACCC and the Commonwealth of any special service inputs
9	The reactivation of fixed-line carriage services over a separating network
10	Requirements for Telstra to inform its retail customers and wholesale customers of matters relating to their impending disconnection from a separating network
11	The protection of, and restrictions on the use of, any confidential information relating to a wholesale customer that Telstra acquires in the course of processes undertaken in accordance with the migration plan
12	Restrictions on the use by Telstra of information provided to Telstra by NBN Co that relates to processes or topics dealt with under the migration plan
13	A reporting framework to ensure that the ACCC can monitor: <ul style="list-style-type: none"> (i) Telstra's compliance with, and the effectiveness of, the migration plan; and (ii) whether the migration plan complies with principles set out in the Migration Plan Principles on an ongoing basis
14	A requirement to provide reports prepared under the reporting framework under item 13 to the Commonwealth on request
15	A process for rectification to apply in the event the migration plan does not continue to comply with principles set out in the Migration Plan Principles

16	Processes for the lodgement by wholesale customers of orders for disconnection of wholesale carriage services from a separating network
17	Processes for the acceptance, processing and execution of orders under item 16 by Telstra
18	Processes and business practices to minimise disruption to the supply of services during the period in which Telstra is undertaking the disconnection of services
19	Measures to ensure the equivalent treatment of wholesale customers and retail business units under processes Telstra will use to disconnect services from a separating network
20	The process for the disconnection by Telstra of no-order disconnection premises
21	The circumstances in which Telstra will not disconnect from a separating network by the designated day premises that are passed by the NBN Co fibre network by that day
22	A requirement to disconnect from separating networks by the designated day all premises that are passed by the NBN Co fibre network other than those to which the circumstances under item 21 apply
23	The provision of a soft dial tone service after Telstra has disconnected a service using its copper network
24	Reasonable steps that a wholesale customer may take in order to control the timing of the disconnection by Telstra of wholesale carriage services from a separating network
25	Circumstances in which a wholesale customer may not be able to take the steps under item 24
26	Restrictions on marketing activity that may be undertaken by agents and employees of Telstra who are involved in processes dealt with under the migration plan
27	The use by Telstra of existing processes for implementing and managing disconnection
28	A process for the ACCC or the independent telecommunications adjudicator to require Telstra to amend an existing process, or develop specific disconnection measures

29	A process for wholesale customers to propose modifications to an existing process or to a disconnection measure
30	The use by Telstra of standard operating systems, interfaces and processes to receive and process disconnection orders
31	A process for the ACCC or the independent telecommunications adjudicator to require Telstra to amend a standard operating system, interface or process
32	<p>Limitations on the scope of the ACCC and the independent telecommunications adjudicator to:</p> <ul style="list-style-type: none"> (i) require Telstra to amend an existing process; and (ii) require Telstra to develop disconnection measures; and (iii) require Telstra to amend a standard operating system, interface or process; and (iv) require rectification in the event the migration plan does not continue to comply with principles set out in the Migration Plan Principles; <p>but only to the extent that such limitations are required to be imposed by the Migration Plan Principles</p>
33	A requirement to notify the ACCC about the types of information that Telstra will give to NBN Co relating to processes or topics dealt with under the migration plan, and the circumstances in which Telstra will provide that information
34	The establishment of a dispute resolution process for dealing with potential disputes between Telstra and wholesale customers that may arise as a result of processes related to disconnection or migration of services
35	The cessation of, and any exemptions to the cessation of, the migration plan
36	The responsibilities and role of the independent telecommunications adjudicator
37	Requirements for Telstra to consult with NBN Co about particular matters arising under the migration plan
38	A process for Telstra to outline how it will develop and submit to the ACCC any material forming part of the migration plan that Telstra is

	required to give to the ACCC after the migration plan has come into force, and for the ACCC to consider such material
39	A process for Telstra to undertake development or implementation testing of a new or modified process, system, interface or disconnection measure, including arrangements for consultation with the ACCC about such testing
40	Any other matters necessary or convenient to give effect to the migration plan principles

5 Specified matters that a migration plan must not deal with

For the purposes of subsection 577BC(4), each of the following matters is specified as a matter that provisions contained in a migration plan must not deal with:

- (a) the operation of section 152AR of the *Competition and Consumer Act 2010* with regard to the supply of declared services by Telstra over the national broadband network;
- (b) terms and conditions relating to the supply to Telstra of fibre services;
- (c) terms and conditions relating to access to eligible services supplied by Telstra over the national broadband network;
- (d) the imposition of charges, either in the form of one-off or ongoing charges, with respect to the provision of access to a declared service supplied by Telstra.