



TELSTRA CORPORATION LIMITED

Submission on amendment to the Telecommunications (Statutory Infrastructure Providers – Circumstances for Exceptions to Connection and Supply Obligations) Determination 2021

19 November 2021



Telstra supports amending the sunset date for the Determination

The Statutory Infrastructure Provider (**SIP**) regime was introduced to ensure that all Australian premises can access superfast broadband services. SIPs are required to connect premises and supply wholesale broadband services in response to a reasonable request from a carriage service provider (**CSP**), on behalf of an end-user at the premises.

The SIP regime is set out in Part 19 of the *Telecommunications Act 1997* (**Telco Act**). The primary legislation includes the main connection and supply obligations, but it does not define what is a “reasonable request”; nor does it set out the circumstances in which a connection or supply request may be refused. Instead, these circumstances are included in the *Telecommunications (Statutory Infrastructure Providers – Circumstances for Exceptions to Connection and Supply Obligations) Determination 2021* (the **Determination**).

Telstra supported the introduction of the Determination. In our view, it is important to define the parameters for reasonable connection and supply requests, so the SIP regime is effective in ensuring all Australian premises have access to superfast broadband services. Further, we believe a list of circumstances where connection and supply requests may be refused will help to create consistent business rules, and remove delays and ambiguity that may be present with subjective decision-making.

At the same time, we note the SIP regime came into effect in July 2020 and is therefore in its infancy. While the Determination draws on the equivalent USO instrument¹, and on existing SIP terms, conditions and policies, we believe there should be a mandatory review of the Determination within several years, including to consider:

- 1 Aspects that have been flagged in the Explanatory Statement supporting the Determination (e.g. not including a definition of “premises” in the Determination; and whether additional guidance is required regarding moveable structures).
- 2 The operation of other exceptions, particularly relating to “topographical or other impediments”. In our view, it will be important to ensure that this exception is not being applied too broadly or as a catch-all, or in a way that imposes significant costs on end-users to remove impediments or make other “reasonable adjustments”.
- 3 The operation of the Determination more generally (e.g. whether there are other exceptions which should be added to the Determination; and whether the Determination is being interpreted and applied as expected, noting the Explanatory Statement says that: “SIPs are expected to respond positively to requests received by CSPs on behalf of end-users, and to take all reasonable steps to facilitate such requests”).

For these reasons, Telstra supports the proposal to amend the Determination to cease three years from commencement (i.e. 28 May 2024). This will provide an opportunity to review the operation of the Determination in the relatively near term. It will also provide an opportunity to consider whether any of the circumstances included in the Determination more appropriately belong in the primary legislation, as raised by the Senate Standing Committee for the Scrutiny of Delegated Legislation.

¹ *Telecommunications Universal Service Obligation (Standard Telephone Service—Requirements and Circumstances) Determination 2011*.