

7 January 2015

Jo Grainger  
Assistant Secretary  
Infrastructure Deployment,  
Telecommunications Division  
Department of Communications

**By Email: [migration@communications.gov.au](mailto:migration@communications.gov.au)**

Dear Ms Grainger

**Telstra submission – Variation of Telstra’s migration plan – regulatory instruments:  
exposure drafts**

We welcome the opportunity to respond to the Australian Government’s consultation on the proposed *Telecommunications (Migration Plan Principles) Determination 2015* (MPPs) and the *Telecommunications (Migration Plan – Specified Matters) Instrument 2015* (SMI).

Our goal is to ensure the Government’s policy of achieving the structural separation of Telstra occurs in a way that minimises disruption to end-users and ensures a smooth transition onto the National Broadband Network (NBN), allowing them to take advantage of the services offered on the new network. Our response to the Government’s Consultation Paper is informed by this goal.

The making of new MPPs and SMI is key to facilitating the multi-technology mix (MTM) model NBN rollout while progressing the policy goal of structural reform. We fully support the Government’s objective of ensuring an effective migration plan is in place to facilitate the implementation of the MTM model in a manner which expedites the rollout of the NBN. We also support the Government’s assessment that no changes are required to our Structural Separation Undertaking in order to facilitate the MTM model NBN rollout.

The key objectives of the draft MPPs are to provide for an efficient and timely disconnection of services from Telstra’s separating networks, equivalence in the disconnection process between Telstra’s retail and wholesale customers, and reasonable regulatory certainty for Telstra. We consider the draft MPPs and SMI in the form released by the Minister achieve these objectives, and will allow us to make the necessary changes to our processes to give effect to the amended migration arrangements agreed with NBN Co.

The amended Definitive Agreements between Telstra and NBN Co facilitate the MTM model rollout of the NBN, as well as incorporating changes to the disconnection process which will improve the end-user experience in migrating to the NBN, based on learnings gained to date from the migration of customers in the first 31 FSAMs. Despite these changes, the amended Definitive Agreements maintain the core elements of the migration and disconnection arrangements currently in place, including the principles of equivalent treatment of retail and wholesale customers in the disconnection of their services; the objective of minimising disruption to the supply of services (to the extent we can); and the importance of effecting the disconnection of customers from our legacy networks in order to ensure the separation of Telstra is achieved.

We consider this framework provides certainty for Telstra, industry and end-users, as we continue to refine the arrangements for managing customers through the disconnection process following

the learnings that have occurred to date, and the feedback obtained from our wholesale and retail customers.

Implementing the amended Definitive Agreements requires changes to the manner in which migration to the NBN is effected and disconnection of the legacy networks occurs, and therefore requires changes to the migration plan. The proposed draft MPPs and SMI, if made in their proposed form, will provide us with the necessary framework required to make these changes to the migration plan, which in turn should result in a better migration experience for end-users and industry.

### *The proposed MPPs and SMI*

As noted above, the draft MPPs and SMI will provide the foundation upon which the required changes can be made to the migration plan to implement the new MTM arrangements, and also to accommodate changes to the processes surrounding disconnection to deliver an improved experience for end-users and service providers. Importantly, the draft MPPs and SMI propose to retain the key principles from the current migration plan, thereby promoting certainty and confidence across the new MTM arrangements. These principles are as follows:

- The requirement for Telstra to disconnect legacy services at the end of the migration window for each FSAM, and thereby deliver structural separation;
- The requirement for Telstra to use existing processes, where possible, to effect disconnection;
- The requirement for Telstra to treat wholesale and retail customers equivalently in the disconnection process;
- Autonomy of wholesale customers in the timing of disconnection of services from the legacy networks and their connection to the NBN, where possible;
- Obligations on Telstra to minimise disruption to services during the migration, where it is within our control;
- Requirements for Telstra to notify customers of the impending disconnection of their services; and
- Consistency in the overall timeline for the disconnection of services from the legacy networks (including the migration window and the requirement to disconnect services) where possible across the NBN technologies.

However, overlaying these core principles the draft MPPs and SMI also provide some additional key changes that we consider will improve the migration experience. The changes accommodated in the draft MPPs and SMI fall into three categories:

- Incorporation of the new MTM model NBN rollout in our disconnection processes to allow for a timely and smooth disconnection of our customers from our legacy networks as they migrate to the NBN;
- Clarification of Telstra's role in the migration and disconnection process to facilitate the development of the Government's Migration Assurance Policy (MAP), crystallise the role of other stakeholders and promote the development of an end-to-end migration process, of which Telstra's role under the migration plan forms only a part; and
- Amendments to the process surrounding the disconnection of customers from our legacy networks which will assist in delivering improved customer outcomes in the migration to the NBN.

These changes, and the benefits we see that would be delivered as a result of the draft MPPs and SMI being made in their proposed form, are outlined in more detail below.

### *The new MTM model NBN Rollout*

While the choice of technology for delivering the NBN is a matter for the Government and NBN Co, we note that by necessity the move to an MTM model NBN rollout impacts our migration plan and the manner in which customers will be disconnected from our legacy networks. For example, the use of fibre-to-the-node technology will result in a different migration experience to that experienced by customers migrating to the NBN using fibre-to-the-premises. We consider the proposed draft MPPs and SMI accommodate the new MTM model NBN rollout by:

- Allowing the migration plan to accommodate changes to the disconnection process which are required as a result of the new technologies that may be deployed in the NBN rollout.
- Encouraging the prompt development of new disconnection processes that may be required as a result of the new MTM rollout, in consultation with industry, NBN Co and the ACCC.
- Ensuring the concept of equivalence is applied to our wholesale and retail customers on equivalent services on the copper network in a way that allows for different migration and disconnection experiences depending on the method of migration. This promotes confidence that the same treatment will apply in the disconnection of customers on our legacy network and ensures the equivalence test is appropriately applied to customers in the same circumstances, allowing for the differences where different technology choices apply, or where different networks are involved.
- Providing regulatory certainty by continuing the current circumstances where wholesale services are not provided on our HFC network while also ensuring that we will not obtain an advantage over competitors in the migration to the NBN. This is achieved by restricting the terms upon which we can offer retail services over the HFC as long as the same restrictions apply to Optus in relation to its retail HFC customers.

We believe these changes are essential to ensuring the migration plan can be adapted to the MTM environment, and to operate effectively and efficiently across the various technologies.

### *Clarity of Roles in the end-to-end Migration Process*

One of the key learnings from the experience gained to date in transitioning customers to the NBN has been that a successful migration requires a coordinated end-to-end process in which different parties each play their part: This includes NBN Co as the new network operator, retail service providers on the NBN, application service providers and equipment providers, wholesale customers on Telstra's legacy networks, and Telstra as the disconnecting party and owner of the legacy networks.

To this end, the migration plan and Telstra's role as the disconnecting party forms only a small part of the overall end-to-end migration process. We note the Government is developing its MAP in consultation with industry, to provide the foundation upon which a successful, end-to-end migration process can be formally developed.

To complement this, and to maintain consistency with the MAP, the draft MPPs provide clarity on key responsibilities in the migration process, in particular what Telstra is and is not responsible for under the migration plan. This in turn will assist in clarifying the roles of other participants while providing a mechanism for the migration plan to keep in step with the MAP outcomes. The draft MPPs and SMI propose changes to the migration plan, which we believe will deliver this certainty. These changes include:

- Guidance as to when assets will and will not form part of Telstra's legacy networks, given the transfer and licensing arrangements required as a result of the new fibre-to-the-node and HFC arrangements.

- Clarification of Telstra's role as the disconnecting party of services on the legacy network, as regulated under the migration plan, by specifying what matters will be included under the migration plan and those which will be the responsibility of others (including Telstra in another capacity, for example as retail service provider).
- Identification of some of the key dependencies we have in performing our obligations under the migration plan, again highlighting the requirements that others have to meet in order to facilitate the timely disconnection of services and impact on our ability to achieve compliance.
- Ensuring consistency between our disconnection arrangements and Standard Industry Processes, including requirements to notify customers of the disconnection of their services.
- Promotion of consistency with the MAP and the migration plan over time, by requiring us to consider future changes to the MAP and whether the migration plan should be amended to accommodate those changes.

For these reasons, the draft MPPs, as supported by the draft SMI, will complement the work being undertaken by the Government and industry in the MAP, and will promote the development of a smoother end-to-end migration process for the benefit of end-users.

#### *Improvements to the processes surrounding disconnection*

The draft MPPs also accommodate changes to the migration plan which would allow Telstra to formally implement the new FSAMs 32 and beyond arrangements which have been agreed with NBN Co and recently communicated to industry. We consider these revised arrangements, which include changes to arrangements after the Disconnection Date and promoting NBN serviceability, ensure that disconnection of services from our legacy networks remains a core tenet of the NBN policy, while also promoting greater end-user awareness of the implications of service disconnection.

The key changes to the migration plan which would be facilitated by the draft MPPs and SMI include:

- A final opportunity for end-users to place their NBN order within a limited timeframe after the Disconnection Date and avoid disconnection of their service while awaiting an NBN connection. Where possible the soft dial tone period after the Disconnection Date will act as a final prompt for customers, including medical alarm customers, who wish to retain a fixed-line service to take action before their services are permanently disconnected.
- Additional time (up to 120 business days post the Disconnection Date) for NBN Co and retail service providers to execute orders to connect services on the NBN before we are required to commence disconnection of legacy services for customers seeking to migrate to the NBN.
- A recognition that services provided within MDU common areas may require a different migration timeline to other services.
- A more streamlined process for us to make changes to the order stability period, which will allow greater flexibility in responding to customer concerns and impacts, while retaining the key requirements of equivalence and minimising the period of its operation.
- Greater certainty on our ability to publish the key dates relevant for industry and end-users in the disconnection of their services, including forecast ready for service dates.
- Incorporating the changes to cease sale which were proposed in our variation of June 2013, which have been operational since that time, and which ensure cease sale will not operate where premises are not NBN serviceable (unless it is a frustrated premises).
- Allowing Telstra to provide copper services in the last six months before the Disconnection Date, where there is in-place copper, and where NBN Co has incorrectly classified the premises as serviceable, and there is likely to be a delay of at least 15 business days for NBN Co to complete the order for a new fixed service.

- An ability for Telstra to restore legacy services on an equivalent basis after the Disconnection Date, where those services were disconnected in error.

We believe these changes will allow for improved service continuity arrangements for end-users, and a greater opportunity for service providers to manage their end-users through the disconnection process, which is not currently provided for under the existing MPPs or the migration plan.

#### *Conclusion*

In our view, the draft MPPs and SMI provide the necessary foundation for changes to occur to the migration process, and consequently the migration plan, which will deliver a level of certainty and assurance to industry that core principles such as equivalence, timely and efficient disconnection, and the fundamental objective of the structural separation of Telstra will be achieved. At the same time, the draft MPPs and SMI should help facilitate the changes needed to allow for the implementation of the MTM arrangements and for an improved end-user experience.

We therefore consider that, once made, the draft MPPs and SMI will play an important part in enabling the role of others in the migration process (including NBN Co, retail service providers, application service providers and end-users) to be better understood, so that a complete end-to-end migration process can be developed.

Should you have further queries or wish to discuss this matter, please contact me or James Shaw on (02) 6129 4632.

Yours sincerely



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