



Submission in response to ACCC
Discussion Paper

**Assessment of Telstra's revised
Migration Plan**

PUBLIC VERSION

May 2015

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Section 1. Executive Summary

- 1.1 Practical experience with initial copper disconnection and migration arrangements has shown this to be highly complex process. A number of significant operational issues have arisen that were not foreseen when the original Migration Plan was approved. This has necessitated some material changes to the processes, especially in respect of the post disconnection period. It is questionable whether the existing approved Migration Plan was achieving its objective of facilitating the efficient and timely disconnection and migration of end-users.
- 1.2 Whilst the revised Migration Plan adopts a number of these changes and contemplates the shift to a multi-technology mix NBN model, a number of the processes have yet to be bedded down and tested in practice. It is likely that future changes will be required, especially as the roll-out of the broader NBN technologies commences. As a consequence Optus' key recommendation is that the Migration Plan should include an appropriate change management process that includes consultation with RSPs as well as NBN Co.
- 1.3 In addition, Optus believes that the Migration Plan remains overly focused on residential customers and does not properly take account of the more complex requirements to transition corporate end-users to the new technologies. In this respect Optus has made a number of detailed recommendations that are aimed at ensuring a more efficient disconnection and migration of corporate end-users.
- 1.4 Optus considers that these changes are required to ensure that the revised Migration Plan has a reasonable prospect of achieving its objectives, which is to facilitate the efficient and timely disconnection and migration of end-user services to the NBN on a non-discriminatory basis.

Section 2. Issues for the revised Migration Plan

Compliance with the Migration Plan Principles

Q1 – Does the revised Plan comply with the Principles?

Q2 – Does the revised plan facilitate the efficient and timely disconnection of carriage services from a separating network?

Q3 – Does the revised Plan minimise disruption to the supply of services, to the extent that it is in Telstra's control?

Q4 – Does the revised Plan give a wholesale customer autonomy over decisions associated with the disconnection, to the extent required by the Principles?

Q5 – Does the revised Plan provide for wholesale services to be disconnected in an equivalent manner to retail services?

2.1 The objectives of the Migration Plan are set under clause 2.1 and broadly include:

- (a) Facilitating the efficient and timely disconnection of carriage services;
- (b) Minimising the disruption to the supply of services; and
- (c) Providing wholesale customers with autonomy over decisions associated with the disconnection.

2.2 These objectives have carried through to the revised plan although the objectives have been amended to specifically limit Telstra's responsibility for certain activities. It is not clear that these limitations will better facilitate the achievement of the broad objectives of the Migration Plan.

2.3 It is also questionable as to whether the existing plan was achieving its objectives. This is evidenced by the fact that the existing processes have had to be substantially amended to respond to significant problems arising with the implementation of the disconnection and migration arrangements.

2.4 Whilst the revised plan captures some of the changes and builds on some of the practical experience in the initial FSAMs that have been subject to disconnection, Optus considers that further changes to the Migration Plan will likely be required. In particular, Optus is concerned that the Migration Plan remains unduly focused on residential consumers and does not provide sufficient attention to the requirements and particular complexities that arise when transitioning corporate customers across to the NBN. Optus has highlighted a number of changes that will need to be made in respect of corporate customers to ensure that the Migration Plan remains consistent with its broad objectives.

2.5 Industry experience has indicated that copper disconnection and migration is complex and issues that have not been identified to date will almost certainly arise in the future. To address this, Optus recommends that the Migration Plan also builds in appropriate change management procedures. For example, under Clause 31, Telstra commits to consult with NBN Co in respect proposed changes to the Migration Plan (including a variation to standard processes and new disconnection measures). Optus considers that this consultation should

be broadened to include discussion with RSPs. This could be achieved through a formal industry review forum.

Continued access to the voice band provided on a ULLS

Q6 – Is the potential to retain a legacy telephone service after migrating to the NBN until the end of the switchover period likely to be of value to all consumers or just certain classes of consumers?

Q7 – For industry respondents, would you intend to take advantage of the arrangements in clause 17.3 of the revised Plan to acquire access to the voice band following disconnection of the ULLS in the FTTN/FTTB areas? How often would this access be sought? Is it significant to this decision that Telstra will be charging the same price for the supply of the voice band as it was for the ULLS?

- 2.6 Optus is concerned with the current operating arrangements proposed by NBN Co and supported by Telstra that would enable an end-user to retain a legacy voice service after taking up a broadband service on the NBN without reference to its RSP. This appears to be an arrangement of convenience for NBN Co and Telstra. NBN Co is relieved of any risks associated with the transfer of a voice services to its network, whereas Telstra will receive an extended period of wholesale revenue. But more importantly the proposal clearly indicates that the current processes and systems are not fit for purpose to achieve efficient disconnection and migration of voice based services.
- 2.7 To support these arrangements Telstra requires RSPs to sign a contract variation in which RSPs acknowledge that the existing copper based access service will continue to be supplied on existing terms and conditions. The implication of this is that in a post-migration environment, RSPs would incur two access fees: one from Telstra for the continued provision of the copper based voice service (e.g. ULLS at \$16.21); and one from NBN Co for the broadband access service. This arrangement is unlikely to be attractive to RSPs who are migrating their existing end-users with bundled services to the NBN. It is only likely to be of interest to gaining RSPs that offer broadband only services.
- 2.8 The arrangement will almost certainly raise a number of practical issues with increased operational risks and costs. This will especially be the case where the broadband and voice services are provided by different RSPs. End-users may not realise that they face the prospect of receiving two bills for the same service from each RSP. Alternatively, an RSP that is required to support the voice-only service on Telstra copper might find that continued provision of that service is uneconomic. The arrangement may also encourage customers to break their existing contracts, which may raise additional fees and costs for customers.
- 2.9 **[CiC]** This arrangement appears to be at odds with the principle that the Migration Plan should facilitate the timely and efficient disconnection of end-users services to the NBN. It has clearly been developed as a work-around solution because the current processes and systems are not fit for purpose for voice based services.

Integrated migration process

- 2.10 The discussion paper indicates that NBN Co and Telstra are developing an integrated migration process to facilitate a more timely and efficient disconnection of copper services. This process will involve Telstra cancelling a copper service on notification from NBN Co that a relevant copper line has been cut-over to the NBN.
- 2.11 Optus agrees that there are likely to be some benefits from such a process. However, there are also key risks. For example, who will bear liability in the circumstances that an end-user is

incorrectly disconnected. It is important for these arrangements to be underpinned by clear operational processes that have the support of industry and not simply Telstra and NBN Co.

- 2.12 It will also be important to ensure that the process, if implemented, applies to access seekers on equivalent terms to that Telstra provides to its own business units (i.e. Telstra Retail).

Disconnection in FTTN/FTTB areas

Q8 – Do you support Telstra acting on NBN Co notifications to cancel services in FTTB and FTTN areas? Would your support for this be dependent upon the development of an operational process that industry has considered and endorsed?

Q9 – For industry respondents, do you intend to participate in the Communications Alliance working group concerning NBN migration and customer transfer processes? Are the suspension periods for Telstra’s cease sale obligations in FTTB areas (until 31 July 2015) and FTTN areas (until 30 September 2015) sufficient to allow this working group to complete its consideration of these processes?

- 2.13 Although Optus does support Telstra acting on behalf of NBN Co to cancel services in FTTB and FTTN areas, a number of operational issues need to be addressed to enable RSPs to finalise end user billing and disconnection activities. These include:
- (a) Timely SLAs between NBN Co and Telstra for the receipt of the disconnection information which may require multiple files and/or daily files to be provided.
 - (b) Timely processing of the files by Telstra and delivery of the files via standard industry methods such as File Transfer Protocol (FTP).
- 2.14 **[Cic]** The Migration Plan should require provision of this information in an FTP format to facilitate efficient end-user transition consistent with the objectives of the Migration Plan.
- 2.15 Optus intends to participate in the Communications Alliance working group concerning NBN migration and customer transfer processes. Due to the relatively low volumes of FTTB serviceable premises over the coming months, Optus suggests that cease sale obligations for both FTTB and FTTN be aligned to the same date. This date will then be dependent on NBN Co’s commercial launch of FTTN and an appropriate timeframe for bedding in of processes for this product.
- 2.16 Optus therefore recommends that, as a minimum, the RFS dates for FTTB and FTTN areas should be aligned and set at a date that is several months after the commercial launch of the FTTN product.

Disconnection in HFC areas

Q10 – Do you support the implementation of a gaining service provider model for customer transfer during migration to the NBN to apply to HFC (and/or other) areas?

Q11 – Is it appropriate that Telstra’s participation in any such arrangement be dependent on Optus also participating as a HFC network operator, as Telstra has proposed?

Q12 – For industry respondents, would you support and participate in the development of a gaining service provider customer migration and transfer process to apply in HFC (and potentially other) areas?

- 2.17 In respect of HFC services Telstra has made its participation in an integrated “gaining service provider” model dependent upon Optus implementing a similar process.

- 2.18 Optus does not consider such a condition to be reasonable. The Migration Plan forms part of Telstra's structural separation obligations which are a feature of its dominant market position. These structural separation arrangements (including the migration plan) intrinsically recognise that Telstra can use its market position to impede competition including in the migration of services to the NBN. The obligation for Telstra to participate in an integrated service provider model should stand in recognition of the structural separation objectives. Clause 9.2(b) of the draft amended Migration Plan should be deleted.
- 2.19 That said Optus sees merit in developing standard industry processes, including for the transfer of Optus HFC customers to the NBN.

In-train order premises

Q13 – To what extent have the provisions relating to in-train order premises in the existing Migration Plan been ineffective in protecting end users from prematurely losing their services on Telstra's networks?

Q14 – Telstra is proposing to treat any premise that connects to the NBN within three months before the Disconnection Date as an in-train order premise? Is three months a sufficient period to ensure that RSPs and ASPs can activate all services at a NBN-connected premise?

Q15 – Telstra has proposed some changes to the arrangements for in-train order premises that will expire at the end of 2015. Will the expiry of these arrangements lead to a re-emergence of the problems that Telstra is currently seeking to address?

Q16 – Would additional transparency in relation to NBN Co's performance in fulfilling in-train orders assist in achieving the Plan's service continuity objectives?

- 2.20 While the revised provisions relating to In Train Order Premises ("ITO") have improved protection for end users prematurely losing their services, there are a number of additional provisions that need to be included. These changes are particularly focused on ensuring efficient and fit for purpose disconnection arrangements for corporate end-users whose service requirements are likely to be complex.
- 2.21 Optus believes the following changes should occur to the disconnection process following the disconnection date ("DD").
- 2.22 In summary, this includes:
- (a) New definition for non-NBN In Flight Orders and replication of the In Train Order processes to be similarly applied to the non-NBN In Flight Orders;
 - (b) Timeframe for lodgement of In Train Orders and non-NBN In Flight Orders should be extended to DD+10 Business Days. The lodgement of non-NBN In Flight Orders at DD+26 Business Days should similarly be applied to parallel the In Train Order process;
 - (c) The definition of In Train Orders before the Disconnection Date should be extended to include all completed orders between DD-6 months and DD, and all orders placed by DD;
 - (d) Improved transparency of In Train Orders;
 - (e) Application of Soft Dial Tone should be optional, i.e. opt-in by RSPs;

- (f) An exception process should be developed to move any In Train Orders into an In-Fill FSAM if it has not been completed at least 4 months prior to the date that is DD+120 Business Days for a rollout region; and
- (g) The proposed exceptions for calendar year 2015 should be made permanent and applicable to all years. The removal of this exception should be made conditional on the ACCC accepting that the disconnection processes have been proven to be effective and promote the seamless transition to NBN.

List of In Train Orders should be complemented with new definition of In Flight Orders

- 2.23 The definition of In Train Order Premises (“ITO”) under clause 15.1(b) needs to be complemented to include other networks’ In Flight Orders (“IFO”) – such as Special Service orders In Train with Telstra; fibre orders with Optus; and FTTB orders with TPG, etc. There needs to be clear recognition that not all services will migrate to NBN Co but to other networks and therefore not disconnected similar to the NBN “In Train” order process. These premises should be exempted from the Soft Dial Tone process and Managed Disconnection Process. RSPs should have the opportunity to supply this list of IFOs to Telstra at DD+10 Business Days; and Telstra should reflect the acceptance of this list through the removal of these Premises from their disconnection profile.
- 2.24 This change can be applied in two ways. Either option should reflect the same outcome:
 - (a) The process for the disconnection of ‘In Train Order Premises’ under clause 15.1(b) should be replicated to apply to all ‘In Flight Orders’ with non-NBN providers under equivalent terms.
 - (b) Insertion of a new definition for In Flight Order which reflects that any processes applicable to ‘In Train Order Premises’ be similarly applied to ‘In Flight Order Premises’ for non-NBN providers.
- 2.25 These changes will recognise the reality that some residential/corporate customers will be migrated across to existing non-NBN fibre networks. They would also ensure that there is equivalence with Telstra Retail.

Extend the date for lodging In Train Orders and non-NBN In Flight Orders

- 2.26 The date for the lodgement of In Train Orders and non-NBN In Flight Orders should be extended to DD+10 Business Days and prior to the application of the Soft Dial Tone process and Managed Disconnection Process.
- 2.27 Clause 15.1(a) sets out that NBN Co will provide Telstra with the In Train Order list at DD and DD+26 Business Days. In practice, while Telstra may receive this ITO list at DD (or DD+1) for all NBN Orders up to DD, other RSPs are only receiving information on this list at approximately DD+6 Business Days. Based on this list, Telstra currently implements its Soft Dial Tone (“SDT”) processes at DD+10 Business Days, which it then completes by DD+15 Business Days.
- 2.28 As some end users, particularly businesses, are responding to disconnection notices late and as NBN Co notification under clause 15.1(a) only includes NBN orders received up to DD, Optus proposes that any additional ITOs placed by the RSP between DD and DD+10 Business Day should be added to the NBN Co supplied In Train Order List (clause 15.1(a)). Optus propose that this additional list should be sent to Telstra at the same time as non-NBN IFOs, i.e. at DD+10 Business Days. Likewise these premises should be excluded from the SDT process and Managed Disconnection Process.

- 2.29 **[CiC]** Optus has therefore proposed the timeframe for the lodgement of ITOs and non-NBN IFOs be extended to DD+10 Business Days, as after this date, Telstra starts the application SDT which it then completes by DD+15 Business Days. In addition, the lodgement of non-NBN IFOs at DD+26 Business Days should similarly be allowed to parallel the In Train Order process.

Change the definition of In Train Orders before the Disconnection Date

- 2.30 Prior to the DD, the current ITO definition includes all completed NBN Orders up to DD-1 month, while the revised Plan proposes to extend this to DD-3 months for calendar year 2015. Optus considers that the In Train Orders definition should be revised to include all completed NBN orders up to DD-6 months. In effect, the reference to “one month” in clause 15.1(b)(iii) should be amended to read “the six months”. This will recognise that post activation activities for business customers which include complex number porting are often delayed either due to end user issues or site specific issues.
- 2.31 **[CiC]** To disconnect the copper line to these end users, who validly intend to migrate to the NBN, will be unnecessarily disruptive to their businesses and represent an adverse end-user experience.

Improved transparency of In Train Orders

- 2.32 Optus believes all NBN Co In Train Orders for a rollout region subject to disconnection should be visible to all RSPs, so they can tell if there are customers who are likely to undergo SDT and managed disconnection. Without this visibility RSPs may continue to market to customers who have placed orders to migrate with other RSPs. Additionally some RSPs may proactively disconnect end users who do not place an order by DD but will not do so if they have visibility that an end-user has lodged an In Train Order with another RSP.

2.33 Soft Dial Tone should be optional

- 2.34 Optus considers that the application of Soft Dial Tone (“SDT”) is a blunt instrument that is not particularly effective and may have a number of unintended consequences. It is somewhat confusing for end-users where SDT is applied that the broadband service will continue to work.
- 2.35 The application of SDT under clause 21.1(a) should be at the discretion of the RSP. **[CiC]** Additionally, the application of SDT for Business Customers is not appropriate. Optus proposes that if an RSP nominates that SDT should not be applied for its end users, Telstra should be obliged to respect this instruction.
- 2.36 The discretion for an RSP to choose the application of SDT should be consistent with the objective of Wholesale Customer autonomy.

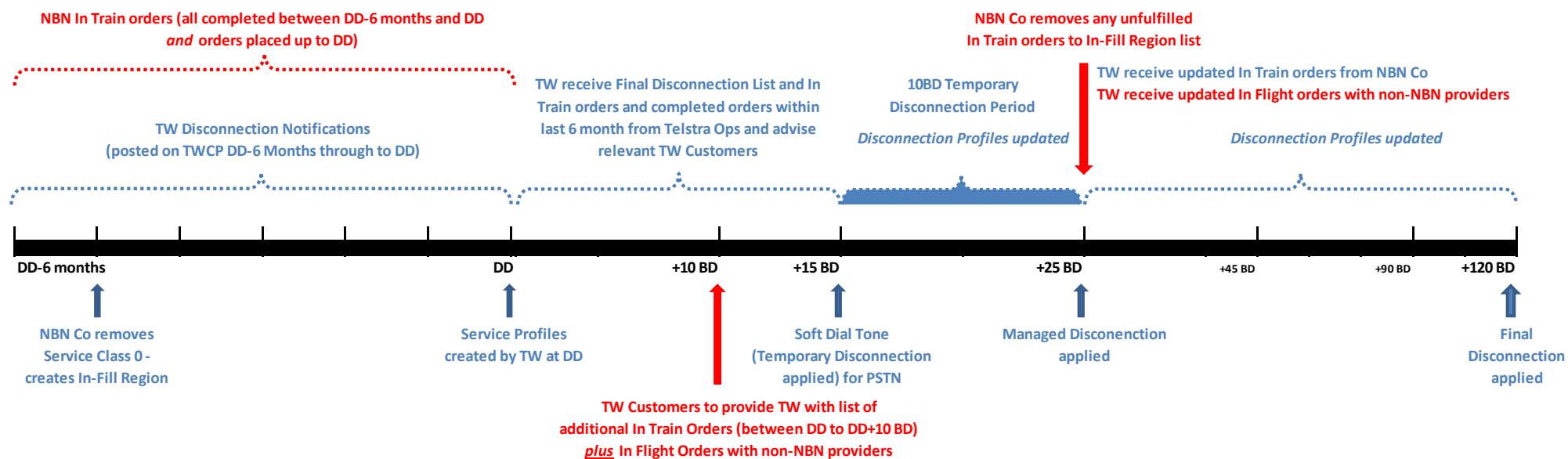
Completion of In Train Orders

- 2.37 Finally, the success of the In Train Order process will be contingent on NBN Co being able to connect premises within the specified timeframes to allow RSPs to complete post activation activities. This is particularly important for business customers. Therefore, given the issues described above, all In Train Orders must be completed at least 4 months prior to the date that is DD+120 Business Days for a rollout region.
- 2.38 While there are some circumstances under which NBN Co may not be able to complete an order in specified timeframes, or, NBN completes an order but the location is incorrect

because the Location Identifier created by NBN Co did not account for multiple units within the site (this occurs mainly in commercial MDUs/warehouse type premises where NBN Co has not identified all the relevant locations). Optus submits that exception processes need to be developed where circumstances outside of the control of the RSP occur.

- 2.39 While transparency of information in relation to NBN Co's performance in fulfilling ITOs will assist RSPs, the prime measure should be that NBN Co delivers a service at least four months before the scheduled disconnection date and this particularly applies to the date that is DD+120 Business Days for a rollout region. To be clear, a copper service should not be disconnected before the date at clause 15.1(c)(ii)(C) (i.e. DD+120 Business Days), even after the NBN service is completed to provide an RSP with an appropriate amount of time to complete the customer transfer (including managing complex ports and internal cabling requirements).
- 2.40 If an NBN Co service is not delivered within this timeframe, then an exception process needs to be developed to move these service into an In-Fill FSAM (similar to the situation where a premise is still unserviceable six months prior to disconnection date) thus extending the disconnection date by 6 months.
- 2.41 Optus does not agree that the proposed changes to clause 15.1(b)(iii), 15.1(c)(ii)(A) and 15.1(c)(ii)(C) should expire at the end of calendar year 2015.
- 2.42 To give effect to these changes the proposed exceptions set out for calendar year 2015 under clause 15.1(d) should be made permanent and applicable to all years. This involves:
- (a) Amendment to clause 15.1(d) to reflect that these exceptions will continue to apply until such time that the ACCC has deemed the 'In Train Order' and non-NBN 'In Flight Order' processes effective and supportive of the seamless transition to NBN.
 - (b) Amendment to clause 15.1(b)(iii) to reflect the "three month period". Ideally, Optus has proposed that this period be further extended to "six months".
- 2.43 The changes proposed, as well as the further changes suggested by Optus, are essential to protect customers from prematurely losing their service. Figure 1 sets out the Telstra Wholesale's current 32+ FSAMs Disconnections Process. Highlighted in red are Optus' proposed additions to this process timeframe.

Figure 1 Disconnections: 32+ FSAMs Disconnection process



Source: Optus

Required Measures and replacement schedules

Q17 – Does clause 5 of the revised Plan provide for the inclusion and potential variation of the specified Required Measures in a manner that is consistent with the Principles?

Q18 – Do the Principles support the proposed limitation on the ACCC from objecting to a proposed schedule under clause 5.2(g) if the schedule is required by a Standard Industry Process or ‘applicable generally accepted industry arrangement’?

2.44 Optus proposes that the limitation in clause 5.2(g) which prevents the ACCC from objecting to a schedule which is required by ‘generally accepted industry arrangements’ should be deleted. This term is too broad and open to interpretation as to what constitutes ‘generally accepted’

2.45 Alternatively, Optus recommends clearer definition of ‘generally accepted’ which should require endorsement by at least two non-Telstra RSPs.

Protection of information

Q19 – Is there any specific information relating to FTTN, FTTB or HFC connections to which Telstra should agree to apply to the existing information security rules?

2.46 Optus has no comments.

Other consumer and competition issues

Q20 – Are there likely to be any other competition or consumer issues arising from the migration process that you have not identified in your responses to the previous question?

2.47 Consideration should also be given to exempting essential services (such as hospitals) from copper disconnection until a fully working NBN service is in place.