

**TELECOMMUNICATIONS (MIGRATION PLAN —  
SPECIFIED MATTERS) INSTRUMENT 2015**

**COMMONWEALTH OF AUSTRALIA**

**TELECOMMUNICATIONS ACT 1997**

I, MALCOLM BLIGH LURNBULL, Minister for Communications make the following Instrument under subsections 577BC(3) and (4) of the *Telecommunications Act 1997*.

Dated 21 January 2015.



MALCOLM BLIGH LURNBULL  
Minister for Communications

## Part 1 – Preliminary

### 1. Name of Instrument

This Instrument is the *Telecommunications (Migration Plan—Specified Matters) Instrument 2015*.

### 2. Commencement

This Instrument commences on the day after it is published on the Department's website in accordance with subsection 577BC(6) of the Act.

### 3. Revocation

The *Telecommunications (Migration Plan—Specified Matters) Instrument 2011* is revoked by this Instrument.

### 4. 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 2015*.

(2) Unless the contrary intention appears, terms defined in the Migration Plan Principles have the same meaning when used in this Instrument.

## Part 2 – Specified matters

*Note 1* Subsection 577BC(3) of the Act 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) of the Act 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.

### 5. Specified matters that a migration plan may deal with

For the purposes of subsection 577BC(3) of the Act, 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 acceptance of orders and/or the supply of copper services or hybrid fibre-coaxial network services to a premises in a 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, or continuation, of special services and special service inputs
7	A process for wholesale customers to nominate wholesale services as special service inputs
8	A requirement for Telstra to advise the ACCC and the Commonwealth of any special service inputs
9	The circumstances for the restoration of copper services and hybrid fibre-coaxial network services, including where this involves the rebuilding of copper paths
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 disclosure or 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	Any requirements or restrictions relating to the disclosure or use by Telstra of information provided to Telstra by NBN Co under the Definitive Agreements that relates to matters dealt with under the migration plan
13	A reporting framework to ensure that the ACCC can monitor: <ul style="list-style-type: none"> <li>(i) Telstra's compliance with, and the effectiveness of, the migration plan; and</li> <li>(ii) whether the migration plan complies with the Migration Plan Principles on an ongoing basis</li> </ul>
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 the Migration Plan Principles

Item	Matter
16	Processes for the lodgement by wholesale customers of orders for disconnection of wholesale 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, to the extent it is reasonably within Telstra's control (and subject to any generally accepted industry arrangements), 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 each of the separate processes Telstra will use to disconnect copper services from the copper network, acknowledging that separate processes may be associated with Migration of those wholesale services and corresponding fixed-line carriage services supplied by Telstra to itself over that network to each of the different types of access technology
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 fixed-line 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 fixed-line network other than those to which the circumstances under item 21 apply
23	The provision (and circumstances governing the removal) of a soft dial tone service by Telstra
24	Reasonable steps that a wholesale customer may take in order to control the timing of the disconnection by Telstra of wholesale 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, including any constraints on Telstra personnel attending on site at premises on behalf of NBN Co
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	Limitations on the scope of the ACCC and the independent telecommunications adjudicator to exercise any power or perform any function under the migration plan, including in respect of making any direction or determination under the migration plan, but only to the extent that such limitations are permitted or required to be imposed by the Migration Plan Principles
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

Item	Matter
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 or interface, including arrangements for consultation with the ACCC about such testing
40	A process for Telstra to review the migration plan and determine if any variations to the plan are required to reflect any parts of the Migration Assurance Policy Statement with which Telstra agrees (if any) and, if applicable, submit variations of the migration plan to the ACCC for approval
41	<p>The following matters related to Migration for which Telstra cannot be directed to take any action or to refrain from taking any action in respect of such matters under the migration plan or Part XIC of the Competition Act, subject to the specification of any exceptions:</p> <ul style="list-style-type: none"> <li>• providing information or notifications about the rollout of the NBN Co fixed-line network and/or its implications for end users, including publication of information relating to network and service readiness information, the likely effect of Migration on existing user equipment or services and provision or publication of information to end users about the operation of Migration-related changes to copper services or hybrid fibre-coaxial network services under the migration plan;</li> <li>• identifying copper services supplied by Telstra or its wholesale customers that cause, or may cause, interference or other performance issues for NBN based services;</li> <li>• the development of products to be supplied on or over the NBN Co fixed line network;</li> <li>• the design of the NBN Co fixed-line network;</li> <li>• the timing of the rollout of the NBN Co fixed-line network;</li> <li>• network activities (including notifications to service providers about the timing and duration of works) associated with making rollout regions ready for the supply of NBN services and/or Migration;</li> <li>• achieving serviceability in respect of the NBN Co fixed-line network;</li> <li>• maintaining any list or register of equipment or services which are or may be incompatible with the NBN Co fixed-line network or carriage services supplied over the NBN Co fixed-line network;</li> <li>• providing a connection to the NBN Co fixed-line network, and any engagement with retail service providers or NBN Co in respect of delays associated with such a connection;</li> <li>• the management of end users within the NBN fixed-line network footprint;</li> <li>• making available any interim carriage services;</li> <li>• the management, and any service assurance, for end users in relation to services supplied by any other carriage service providers or other application service providers (including medical alert services, security alarms, lift phones, fire alarms, ATMs, EFTPOS terminals);</li> <li>• in-home wiring or other activities undertaken on the customer side of the network termination point, associated with connection of a premises to the NBN Co fixed-line network;</li> <li>• the provision of upgraded customer premises equipment required to access services supplied over the NBN Co fixed-line network;</li> <li>• any testing of products developed by NBN Co, retail service providers or third parties; or</li> <li>• co-ordination or management of the connection process for or on behalf of any wholesale customer.</li> </ul>

Item	Matter
42	Any interdependencies upon which Telstra's performance of obligations under the migration plan relies
43	A process for Telstra to develop proposals for amendments to an order stability period for a rollout region where the proposed amendment has the effect of reducing the duration of the period or the number or type of orders that are subject to relevant restrictions
44	The process for Telstra to notify the ACCC of a proposal under item 43
45	Specification of how any conflict or inconsistency between any of the provisions of the migration plan, the structural separation undertaking and Industry Migration Arrangements are resolved from an instrument interpretation perspective
46	Any acknowledgement of circumstances where Telstra's ability to undertake activities under the migration plan including disconnection, the reconnection of copper paths and/or the service quality of copper services, may be dependent on NBN Co making available copper lines or copper sub-loops that are owned by NBN Co
47	The prohibition on the supply of carriage services by Telstra to wholesale customers or otherwise on a wholesale basis using any hybrid-fibre coaxial network controlled by Telstra
48	Any requirements (including pricing) relating to Telstra's supply of carriage services to retail customers over a hybrid fibre-coaxial network controlled by Telstra
49	The disconnection, or continuation, of copper services and hybrid fibre-coaxial network services to common areas within multi-dwelling units
50	The circumstances in which Telstra will be involved, if any, in the use by NBN Co of existing hybrid fibre-coaxial or copper lines to pull through other types of lines forming part of the NBN Co fixed-line network
51	The actions to be taken by Telstra to commence to supply carriage services to Telstra's customers using the NBN Co fixed-line network
52	A requirement for Telstra to enter into a deed of amendment and restatement and continuity deed immediately following approval of the migration plan by the ACCC, on terms identical to the original form of the deed of amendment and restatement and continuity deed, except in respect of: <ul style="list-style-type: none"> <li>• the effective dates of both agreements;</li> <li>• the removal of any conditions precedent in the original deed of amendment and restatement or continuity deed which had been waived or satisfied prior to such termination and re-entry occurring or which Telstra and NBN Co otherwise agree to remove;</li> <li>• the removal of any requirement for the parties to enter into a replacement deed of amendment and restatement and replacement continuity deed following approval of the migration plan; and</li> <li>• any other changes agreed by Telstra and NBN Co and approved by the Minister.</li> </ul>
53	The incorporation of any measures or processes previously approved by the ACCC into a form of the migration plan comprising MTM variations (including processes for updating or amending the plan)
54	The requirements for Telstra to publish disconnection dates and other disconnection-related dates or milestones
55	Any other matters necessary or convenient to give effect to the Migration Plan Principles

## 6. 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) terms and conditions relating to the supply by NBN Co to Telstra of services using the national broadband network;

- (b) terms and conditions relating to access to eligible services supplied by Telstra over the national broadband network;
- (c) 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; and
- (d) activities, if any, that Telstra undertakes as a contractor of NBN Co in connection with the planning, design, construction or maintenance of the national broadband network.