

Commonwealth of Australia

Telecommunications Act 1997

**Telecommunications (Migration Plan Principles)
Determination 2011**

I, STEPHEN MICHAEL CONROY, Minister for Broadband, Communications and the Digital Economy, make the following Determination under subsection 577BB(1) 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 Determination

This Determination is the *Telecommunications (Migration Plan Principles) Determination 2011*.

2 Commencement

This Determination commences on the day after it is published on the Department's website in accordance with subsection 577BB(3) of the Act.

3 Objects

The object of this Determination is to set out principles that:

- (a) provide for the efficient and timely disconnection of wholesale and retail carriage services from a separating network as the NBN Co fibre network is deployed; and
- (b) provide for equivalence in the disconnection processes that Telstra will implement for its wholesale customers and retail business units.

4 Definitions

(1) In this Determination:

Act means the *Telecommunications Act 1997*.

business unit means a part of Telstra.

CMUX means customer multiplexer.

confidential information relating to a wholesale customer includes but is not limited to:

- (a) information identifying a wholesale customer or a retail customer of a wholesale customer, which was provided by the wholesale customer in connection with the supply by Telstra of wholesale carriage services to the wholesale customer; and
- (b) information derived from information of the kind described in paragraph (a), whether or not in an aggregate form, that:
 - (i) would enable the identity of a wholesale customer to be ascertained; or
 - (ii) would enable the identity of a retail customer of a wholesale customer to be ascertained;

but does not include:

- (c) information of the kind described in subparagraph (b)(i) where the information is aggregated on a national basis; or
- (d) information which is already public.

Consumer Protection Act means the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

copper line means a line or series of lines that is part of a copper network that, together with any customer cabling, forms a connection to premises.

copper network means a network in Australia over which Telstra is in a position to exercise control comprising copper or aluminium wire based lines:

- (a) from the network boundary point at each premises up to and including the first electronic remote access multiplexer (for example, a CMUX or RIM) immediately upstream of each such premises; or
- (b) from the network boundary point at each premises up to and including the MDF in a Telstra exchange (or similar location) immediately upstream of each such premises; or
- (c) from the first electronic remote access multiplexer immediately upstream of each premises up to and including the MDF in a

Telstra exchange (or similar location) immediately upstream of each such electronic remote access multiplexer,

which is, or has been at any time, used to provide fixed-line carriage services, and includes each such electronic remote access multiplexer and MDF.

designated day has the same meaning as in section 577A of the Act.

disconnection date, in relation to a fibre rollout region, means:

- (a) the date 18 months after the region ready for service date for the fibre rollout region (the *default disconnection date*); or
- (b) if, prior to the default disconnection date for that fibre rollout region, NBN Co publishes a notice on its website advising that a different date is the disconnection date for that fibre rollout region—that date.

fibre rollout region means an area identified by NBN Co in a notice published on its website as a rollout region in which fibre is being deployed, or will be deployed, as part of the NBN Co fibre network.

fibre services means the carriage services which are, or are to be, supplied by NBN Co over the NBN Co fibre network.

fixed-line carriage service means a fixed-line carriage service within the meaning of that term in section 577A of the Act other than a service of that kind that is specified in an instrument made under subsection 577A(20) of the Act.

general principles means the principles at sections 8, 17, 21, 23, 27, 28, 29 and 30 of this Determination.

hybrid fibre-coaxial network means a telecommunications network:

- (a) that is used for the transmission of broadcasting services; and
- (b) the line component of which consists of optical fibre to connecting nodes, supplemented by coaxial cable connections from the nodes to the premises of end-users;

whether or not the network is also capable of being used to supply an internet carriage service.

local number portability means the porting of local telephone numbers associated with carriage services to be disconnected and any other procedures necessary to allow an end-user to continue to use that local telephone number for a carriage service supplied using another network.

MDF means main distribution frame.

NBN Co fibre network means the fibre that is:

- (a) deployed as part of, or which otherwise becomes part of, the national broadband network; and
- (b) accepted into operation by NBN Co; and
- (c) owned, controlled or operated by or on behalf of an NBN corporation.

premises means each of the following:

- (a) an addressable location currently used on an on-going basis for residential, business (whether for profit or not), government, health or educational purposes;
- (b) a school as defined by the Department of Education, Employment and Workplace Relations;
- (c) a location within a new development at an addressable location for which NBN Co is the wholesale provider of last resort;
- (d) an addressable location for a standard telephone service which is activated in compliance with the universal service obligation;
- (e) a payphone at a location at which Telstra is required to install or maintain a payphone in accordance with an instrument made under section 12EF of the Consumer Protection Act;
- (f) a location which NBN Co is directed by the Minister to connect to the NBN Co fibre network.

procedural principles means the principles in Part 4 of this Determination.

pull-through means the process by which an existing copper lead-in to a premises is used as a draw to pull through fibre as part of the connection process to the NBN Co fibre network.

region ready for service date, in relation to a fibre rollout region, means the date advised by NBN Co in a notice published on its website that fibre services will be able to commence to be supplied in the fibre rollout region.

retail business unit means a business unit by which Telstra deals with its retail customers.

retail carriage services means fixed-line carriage services supplied to a retail customer.

RIM means remote integrated multiplexer.

separating network means a telecommunications network over which Telstra is in a position to exercise control that is not specified in an instrument made under subsection 577A(21) of the Act.

special service inputs has the meaning given by subsection 13(2).

special services means the fixed-line carriage services which are described in the Schedule to this Determination.

specific principles means principles in Part 3 of this Determination that are not general principles.

structural separation undertaking means the undertaking given by Telstra to the ACCC under section 577A of the Act.

universal service obligation has the same meaning as in the Consumer Protection Act.

wholesale line rental means the line rental service declared by the ACCC under subsection 152AL(3) of the *Competition and Consumer Act 2010* for the purposes of Part XIC of the Act.

- (2) In this Determination, **independent telecommunications adjudicator** has the same meaning as in section 152EQ of the *Competition and Consumer Act 2010*.
- (3) For the purposes of subsection (2), assume that Division 3 of Part 1 of Schedule 1 to the *Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Act 2010* has commenced.
- (4) For the purposes of this Determination, if:
- (a) Telstra supplies a fixed-line carriage service to a carriage service provider; and
 - (b) the fixed-line carriage service is supplied to the carriage service provider in order that the carriage service provider can provide a carriage service;
- then:
- (c) the fixed-line carriage service that is, or is to be, supplied by Telstra to the carriage service provider is a **wholesale carriage service**; and
 - (d) the carriage service provider is a **wholesale customer**.
- (5) For the purposes of this Determination:
- (a) Telstra **disconnects** a premises from a separating network when it ceases to supply fixed-line carriage services (other than special services and special service inputs) to that premises using that separating network; and
 - (b) Telstra **disconnects** a separating network in a fibre rollout region when it ceases to supply fixed-line carriage services (other than special services and special service inputs) using that separating network to premises in that region that are passed by the NBN Co fibre network, other than:

- (i) in the case of a copper network—premises to which one or more of the relevant circumstances in subsection 9(8) apply; and
 - (ii) in the case of a hybrid fibre-coaxial network—premises to which one or more of the relevant circumstances in subsection 10(6) apply; and
 - (c) Telstra **disconnects** a fixed-line carriage service supplied to a premises in a fibre rollout region from a separating network in a fibre rollout region when it ceases to supply that fixed-line carriage service to that premises using that separating network; and
 - (d) Telstra **disconnects** a soft dial tone service from a premises when Telstra ceases to supply the soft dial tone service to that premises.
- (6) For the purposes of this Determination, a premises is **passed by the NBN Co fibre network** if the premises is included in a list published by NBN Co on its website from time to time of premises that have been passed by the NBN Co fibre network and are capable of being physically connected to the NBN Co fibre network.
- (7) For the purposes of this Determination:
- (a) **soft dial tone service** means a service that allows an end-user at a premises in a fibre rollout region connected by a copper line over which Telstra supplied a retail standard telephone service or a wholesale line rental service at the disconnection date for that region, after the disconnection of that service, to call Telstra's customer service and fault centre numbers and to make emergency calls, but does not otherwise allow end-users to make or receive other calls, or to receive other carriage services; and
 - (b) that service is taken not to be a fixed-line carriage service.

Note 1 By virtue of paragraph 46(1)(b) of the *Acts Interpretation Act 1901*, a number of expressions used in this Determination have the same meaning as in section 7 of the Act, including:

- ACCC
- carriage service provider
- customer cabling
- facility
- internet carriage service
- line link
- Telstra

Note 2 By virtue of paragraph 46(1)(b) of the *Acts Interpretation Act 1901*, a number of expressions used in this Determination have the same meaning as in Subdivision B of Division 2 of Part 33 of the Act, including:

- migration plan
- migration plan principles
- national broadband network
- NBN Co
- NBN corporation

Part 2 Migration Plan Principles

5 Migration Plan Principles

The principles set out at sections 8 to 38 of this Determination are the migration plan principles.

6 Types of principles

(1) This Determination sets out three types of migration plan principles, including:

- (a) general principles, which describe the overarching principles that must be met by the migration plan; and
- (b) specific principles, which provide further specificity regarding how some of the general principles are given effect in the migration plan; and
- (c) procedural principles, which set out procedural provisions that must be included in the migration plan.

(2) To avoid doubt, as a matter of interpretation:

- (a) the specific principles do not limit or otherwise affect the generality of the general principles; and
- (b) the fact that a provision of this Determination refers to a general principle, specific principle or procedural principle does not limit or otherwise affect the application and interaction of the other migration plan principles to or with that provision.

7 Compliance with the principles

(1) For the purposes of determining whether the migration plan complies with the migration plan principles, the migration plan will be considered against:

- (a) the general principles; and
- (b) the specific principles; and
- (c) the procedural principles.

(2) Where a provision of this Determination:

- (a) imposes a requirement on the migration plan with respect to the independent telecommunications adjudicator; or
- (b) provides a role for the independent telecommunications adjudicator;

that requirement is only imposed, and that role is only provided, if the structural separation undertaking provides for the establishment of the independent telecommunications adjudicator.

(3) For the avoidance of doubt, notwithstanding any reference in a provision of this Determination to the independent telecommunications adjudicator, nothing in this Determination requires:

- (a) the structural separation undertaking; or
- (b) the migration plan;

to provide for the establishment of the independent telecommunications adjudicator.

Part 3 General principles and specific principles

Division 1 General principle – disconnection of carriage services

8 General principle

(1) The migration plan must provide for disconnection of fixed-line carriage services supplied to premises in a fibre rollout region to occur in a way that:

- (a) ensures the efficient and timely disconnection of wholesale carriage services and retail fixed-line carriage services from a separating network; and
- (b) to the extent it is in Telstra's control, minimises disruption to the supply of fixed-line carriage services; and
- (c) to the greatest extent practicable, gives wholesale customers autonomy over decisions about the timing of disconnection from a separating network and sequencing of that disconnection with connection to the NBN Co fibre network to enable them to minimise disruption to the supply of carriage services when connecting to the NBN Co fibre network; and
- (d) to the greatest extent practicable, provides for wholesale carriage services supplied by Telstra over a separating network to be disconnected from that network in an equivalent manner to the disconnection of corresponding fixed-line carriage

services supplied by Telstra to itself over that network in that rollout region.

- (2) For the purposes of paragraphs (1)(b), (c) and (d), the migration plan must require Telstra to have in place reasonable policies and business practices relating to disconnection from a separating network.
- (3) The policies and business practices referred to in subsection (2) must provide for Telstra to facilitate, to the extent it is reasonably in Telstra's control to do so, the management by wholesale customers of the migration of their customers in a way that minimises:
 - (a) the period of any service outage; and
 - (b) the time taken to complete local number portability processes and any ancillary procedures.

9 Specific principle – disconnection of carriage services using copper networks

Process for disconnection of copper networks in fibre rollout region

- (1) The migration plan must set out the processes Telstra will use to disconnect fixed-line carriage services supplied to premises in a fibre rollout region from a copper network (to the extent that the copper network is a separating network) following the region ready for service date for that fibre rollout region.
- (2) The processes set out in the migration plan in accordance with subsection (1) must be set out in sufficient detail to enable the ACCC to be satisfied that the processes are in accordance with the general principles at sections 8 and 21.
- (3) Subject to section 23, the processes set out in the migration plan in accordance with subsection (1) must not contain requirements that are inconsistent with industry arrangements for local number portability that would apply to migration to the NBN Co fibre network.

No-order disconnection premises

- (4) The migration plan must set out the process by which Telstra will disconnect no-order disconnection premises in a fibre rollout region from a copper network (to the extent that copper network is a separating network) on or after the disconnection date for that fibre rollout region.
- (5) The process set out in the migration plan in accordance with subsection (4) must:
 - (a) specify which fixed-line carriage services supplied at no-order disconnection premises will be disconnected and the circumstances in which those fixed-line carriage services will be disconnected; and
 - (b) require Telstra to seek advice from NBN Co about whether NBN Co has received an order for connection at a no-order

disconnection premises prior to disconnecting that premises;
and

- (c) provide for the treatment of fixed-line carriage services supplied at no-order disconnection premises in respect of which NBN Co notifies Telstra on or before the disconnection date for that fibre rollout region that an order for connection to the NBN Co fibre network has been received but connection has not been completed by the disconnection date for the fibre rollout region; and
 - (d) specify the period commencing from the disconnection date within which fixed-line carriage services will be disconnected from no-order disconnection premises; and
 - (e) if Telstra supplies wholesale carriage services to a wholesale customer using a separating network at the no-order disconnection premises—require Telstra to notify the wholesale customer prior to disconnecting the no-order disconnection premises from the separating network.
- (6) The period specified in accordance with paragraph (5)(d) must not be longer than:
- (a) in the case of no-order disconnection premises to which paragraph (5)(c) applies—the period of 90 business days after the disconnection date; or
 - (b) in the case of no-order disconnection premises of a type specified in the migration plan in accordance with subsection (6A)—the maximum period specified in the migration plan for that type of no-order disconnection premises; or
 - (c) in all other cases—the period of 10 business days after the disconnection date.
- (6A) The migration plan may set out specified types of no-order disconnection premises (other than no-order disconnection premises to which paragraph (5)(c) applies) for which specified maximum periods apply for the purposes of paragraph (5)(d).
- (6B) If the migration plan specifies a type of no-order disconnection premises and a maximum period for that type of no-order disconnection premises for the purposes of subsection (6A), then the specified type of no-order disconnection premises and the specified maximum period must not be inconsistent with any arrangements for no-order disconnection premises set out in an agreement between Telstra and NBN Co given to the ACCC to which subsection 577BA(3) of the Act applies.

- (7) For the purposes of this section, 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 fibre rollout 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 is a ***no-order disconnection premises***.

Circumstances in which premises will not be disconnected

- (8) The migration plan must set out the circumstances (the ***relevant circumstances***) in which Telstra will not, by the designated day, disconnect from the copper network a premises where, as at that day:
- (a) there are copper lines at that premises; and
 - (b) that premises is passed by the NBN Co fibre network.

- (9) Any circumstances set out in the migration plan in accordance with subsection (8) must not be inconsistent with the circumstances set out in an agreement between Telstra and NBN Co given to the ACCC to which subsection 577BA(3) of the Act applies.

Disconnection by the designated day

- (10) The migration plan must require Telstra to disconnect from a copper network, by the designated day, all premises that are passed by the NBN Co fibre network other than premises to which one or more of the relevant circumstances apply.

10 Specific principle – disconnection of carriage services using hybrid fibre-coaxial networks

Process for disconnection of hybrid fibre-coaxial network in a fibre rollout region

- (1) The migration plan must set out the process Telstra will use to disconnect fixed-line carriage services supplied to premises in a fibre rollout region using a hybrid fibre-coaxial network (to the extent that hybrid fibre-coaxial network is a separating network) following the region ready for service date for that fibre rollout region.

No-order disconnection premises

- (2) The migration plan must set out the process by which Telstra will disconnect no-order disconnection premises in a fibre rollout region from a hybrid fibre-coaxial network (to the extent that hybrid fibre-coaxial network is a separating network) on or after the disconnection date for that fibre rollout region.
- (3) The process set out in the migration plan in accordance with subsection (2) must:
- (a) specify which fixed-line carriage services supplied at no-order disconnection premises will be disconnected and the circumstances in which those fixed-line carriage services will be disconnected; and

- (b) require Telstra to seek advice from NBN Co about whether NBN Co has received an order for connection at a no-order disconnection premises prior to disconnecting that premises; and
 - (c) provide for the treatment of fixed-line carriage services supplied at no-order disconnection premises in respect of which NBN Co notifies Telstra on or before the disconnection date for that fibre rollout region that an order for connection to the NBN Co fibre network has been received but connection has not been completed by the disconnection date for the fibre rollout region; and
 - (d) specify the period commencing from the disconnection date within which fixed-line services will be disconnected from no-order disconnection premises.
- (4) The period specified in accordance with paragraph (3)(d) must not be longer than:
 - (a) in the case of no-order disconnection premises to which paragraph (3)(c) applies—the period of 90 business days after the disconnection date; or
 - (b) in the case of no-order disconnection premises of a type specified in the migration plan in accordance with subsection (4A)—the maximum period specified in the migration plan for that type of no-order disconnection premises; or
 - (c) in all other cases— the period of 10 business days after the disconnection date.
- (4A) The migration plan may set out specified types of no-order disconnection premises (other than no-order disconnection premises to which paragraph (3)(c) applies) for which specified maximum periods apply for the purposes of paragraph (3)(d).
- (4B) If the migration plan specifies a type of no-order disconnection premises and a maximum period for that type of no-order disconnection premises for the purposes of subsection (4A), then the specified type of no-order disconnection premises and the specified maximum period must not be inconsistent with any arrangements for no-order disconnection premises set out in an agreement between Telstra and NBN Co given to the ACCC to which subsection 577BA(3) of the Act applies.
- (5) For the purposes of this section, 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 fibre rollout region from its retail customer to disconnect any remaining fixed-line carriage services (other than special

services or special service inputs) supplied to that premises from that network is a ***no-order disconnection premises***.

Circumstances in which premises will not be disconnected

- (6) The migration plan must set out the circumstances (the ***relevant circumstances***) in which Telstra will not, by the designated day, disconnect a premises from a hybrid-fibre coaxial network where, as at that day:
- (a) there are lines which form part of a hybrid fibre-coaxial network at that premises; and
 - (b) that premises is passed by the NBN Co fibre network.
- (7) Any circumstances set out in the migration plan in accordance with subsection (6) must not be inconsistent with the circumstances set out in an agreement between Telstra and NBN Co given to the ACCC to which subsection 577BA(3) of the Act applies.

Disconnection by the designated day

- (8) The migration plan must require Telstra to disconnect from a hybrid-fibre coaxial network, by the designated day, all premises that are passed by the NBN Co fibre network other than premises to which one or more of the relevant circumstances apply.

11 Specific principle – coordination of connection and disconnection

- (1) The migration plan must set out how Telstra will give wholesale customers autonomy in relation to decisions about disconnection of fixed-line carriage services supplied to premises (other than no-order disconnection premises) from a separating network in a fibre rollout region to allow them to coordinate with NBN Co to minimise the period of any service outage between the disconnection of fixed-line carriage services using a separating network and the connection at the same premises of fibre services being undertaken by or on behalf of NBN Co.
- (2) The migration plan must require that, where Telstra supplies only a standard telephone service over a copper network to a retail customer at a premises in a fibre rollout region, Telstra must notify its retail customer that if Telstra disconnects the standard telephone service in response to a request from the retail customer, any other fixed-line carriage service supplied using the same copper line, whether by Telstra or a wholesale customer, will also be disconnected without further notice.
- (3) The migration plan must require that, if:
- (a) Telstra disconnects a fixed-line carriage service supplied to a premises over a copper network on request of a retail customer; and

- (b) that disconnection affects a wholesale customer supplying fixed-line carriage services to that premises using the same copper line;

Telstra must notify the wholesale customer of the disconnection.

- (4) The migration plan must require that, if:

- (a) Telstra disconnects a fixed-line carriage service supplied to a premises over a copper network on request of a wholesale customer; and
- (b) that disconnection affects a second wholesale customer supplying fixed-line carriage services to that premises using the same copper line;

Telstra must notify the second wholesale customer of the disconnection.

- (5) In this section, *no-order disconnection premises* means a premises that is a no-order disconnection premises for the purpose of section 9 or section 10.

12 Specific principle – restrictions on the supply of carriage services prior to and after the disconnection date

- (1) The migration plan must specify any reasonable circumstances in which Telstra proposes to restrict the processing of transactions for retail customers or wholesale customers (including the rejection of, or failure to process, requests from such customers) in relation to the supply of fixed-line carriage services using a separating network in a fibre rollout region prior to the disconnection date.
- (2) Any restrictions proposed in the migration plan regarding the processing of customer transactions must be:
- (a) in accordance with the general principles at sections 8 and 21; and
 - (b) imposed for the shortest period reasonably required.
- (3) The migration plan must require Telstra to review any restrictions imposed under subsection (1) with a view to determining whether the restrictions require adjustment with the benefit of operational experience in the migration process in each of the following circumstances:
- (a) where Telstra is requested to do so by the ACCC;
 - (b) where Telstra is requested to do so by the independent telecommunications adjudicator;
 - (c) where Telstra is requested to do so by a wholesale customer, and that request is reasonable.
- (4) The migration plan must require Telstra, in conducting any review in accordance with subsection (3), to consult NBN Co.

- (5) The migration plan must set out the actions that Telstra will take if, as a result of a review under subsection (3), Telstra determines that the restrictions imposed under subsection (1) require adjustment.

Note: The principle at section 33 requires that the migration plan include a dispute resolution process to apply to a dispute between Telstra and a wholesale customer.

- (6) In addition to the circumstances specified in the migration plan in accordance with subsection (1), the migration plan must specify the circumstances in which Telstra will:

- (a) refuse to supply fixed-line carriage services over a separating network to a premises in a fibre rollout region, notwithstanding a request to do so from a retail customer or a wholesale customer; and
- (b) agree to supply fixed-line carriage services over a separating network to a premises in a fibre rollout region on request from a retail customer or a wholesale customer;

where the relevant request is received after Telstra has disconnected that premises from the separating network.

13 Specific principle – special services

- (1) The migration plan must set out when Telstra intends to disconnect special services from a separating network in accordance with the general principles at section 8 and section 17.
- (2) The migration plan must set out, in accordance with the general principles at section 8 and section 17, when Telstra intends to disconnect from a separating network specific wholesale carriage services (*special service inputs*) supplied to its wholesale customers in a fibre rollout region using a separating network which are used by those wholesale customers to supply services at premises in that fibre rollout region that are substantially similar to relevant special services .
- (3) The migration plan must establish a process, in accordance with the general principle at section 21, to allow a wholesale customer of Telstra to nominate wholesale carriage services supplied to premises within a fibre rollout region that are used by that wholesale customer as a special service input for the purpose of subsection (2).
- (4) The migration plan must provide that Telstra, on request of either the ACCC or the Commonwealth, will notify that party of any special service inputs identified as a result of that process.
- (5) In this section, *relevant special services* means the special services described at item 1 of the Schedule.

14 Specific principle – maintaining a soft dial tone

(1) The migration plan must require that if:

- (a) Telstra has disconnected a premises in a fibre rollout region in accordance with the process described in subsection 9(4) of this Determination; and
- (b) Telstra was supplying wholesale line rental over a copper line to the premises immediately prior to disconnection; and
- (c) Telstra is not supplying any carriage service to that premises over the NBN Co fibre; and
- (d) NBN Co has not informed Telstra that it has received an order for the connection of that premises to the NBN Co fibre network;

Telstra must:

- (e) as far as practicable, continue to supply a soft dial tone service to that premises until the date (the *relevant date*) which is the earliest of:
 - (i) 20 business days after the disconnection date for the fibre rollout region; and
 - (ii) the date of any disconnection, for the purposes of pull-through, of a copper line used to supply a carriage service to the premises; and
 - (iii) the date that the premises is connected to the NBN; and
- (f) disconnect the soft dial tone service from that premises on the relevant date.

(2) The migration plan must require that if:

- (a) Telstra has disconnected a premises in a fibre rollout region in accordance with the process described in subsection 9(4) of this Determination; and
- (b) Telstra was supplying a standard telephone service to a retail customer at that premises over a copper line immediately prior to disconnection; and
- (c) Telstra is not supplying any service to a retail customer at that premises over the NBN Co fibre network; and
- (d) NBN Co has not informed Telstra that it has received an order for the connection of that premises to the NBN Co fibre network;

Telstra must:

- (e) as far as practicable, continue to supply a soft dial tone service to the retail customer until the date (the *relevant date*) which is the earliest of:
 - (i) 20 business days after the disconnection date for the fibre rollout region; and
 - (ii) the date of any disconnection for the purposes of pull-through of a copper line used to supply a carriage service to the premises; and
 - (iii) the date that the premises is connected to the NBN; and
- (f) disconnect the soft dial tone service from that premises on the relevant date.

15 Specific principle – reactivation of carriage services

- (1) The migration plan must specify the circumstances, if any, in which Telstra may reactivate fixed-line carriage services over a separating network to premises in a fibre rollout region.
- (2) For the purposes of subsection (1), the migration plan must provide for the equivalent treatment of wholesale carriage services to Telstra retail carriage services in the implementation of any reactivation processes over a separating network.
- (3) The migration plan must specify when Telstra must disconnect those fixed-line carriage services, if any, that it has reactivated over a separating network as provided in subsection (1).

16 Specific principle – equipment of wholesale customers

The migration plan must set out a fair and practicable process to be used by a wholesale customer, following disconnection of copper lines over which wholesale carriage services were supplied to that wholesale customer in a fibre rollout region, to access Telstra's facilities in that fibre rollout region to remove any equipment belonging to that wholesale customer.

Division 2 General principle – timetable for disconnecting fixed-line carriage services

17 General principle

- (1) The migration plan must set out a timetable, or a method for determining a timetable, for disconnecting fixed-line carriage services from a separating network in accordance with this general principle and the specific principles set out in this Division 2.

- (2) Any timetable set out in the migration plan in accordance with subsection (1) must, insofar as it relates to fixed-line carriage services that are not special services or special service inputs, be coordinated with, and determined by reference to, the schedule for the rollout of the NBN Co fibre network published by NBN Co on its website.
- (3) Any method for determining a timetable set out in the migration plan in accordance with subsection (1) must, insofar as it relates to fixed-line carriage services that are not special services or special service inputs, provide for the timetable to be coordinated with, and determined by reference to, the schedule for the rollout of the NBN Co fibre network published by NBN Co on its website.
- (4) The migration plan must set out a timetable, or a method for determining a timetable, for Telstra to cease to supply any special services and any special service inputs that are not disconnected from a separating network in a fibre rollout region at the disconnection date for that fibre rollout region, in accordance with this general principle and the specific principles set out in this Division 2.

18 Specific principle – timing of disconnection orders

The timetable, or a method for determining a timetable, set out in the migration plan in accordance with subsection 17(1) must describe, in respect of each fibre rollout region, the first date from which and the last date by which a wholesale customer can lodge an order with Telstra to disconnect wholesale carriage services (other than special service inputs) supplied to that wholesale customer at a premises in that fibre rollout region from a separating network.

19 Specific principle – control of disconnection timing and processes

The migration plan must set out:

- (a) 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 in a fibre rollout region following the region ready for service date and before the disconnection date for that fibre rollout region; and
- (b) any known circumstances where a wholesale customer may not be able to take those steps.

20 Specific principle – provision of information regarding disconnection

- (1) The migration plan must set out minimum requirements for Telstra to notify:
 - (a) wholesale customers that Telstra supplies with wholesale carriage services over a separating network at premises in a fibre rollout region; and

- (b) retail customers that Telstra supplies with fixed-line carriage services over a separating network at premises in a fibre rollout region;

of the following matters relating to disconnection of that separating network:

- (c) the disconnection date for the fibre rollout region;
 - (d) the impending disconnection of those wholesale customers and retail customers.
- (2) The matters set out in the migration plan in accordance with subsection (1) must ensure that Telstra notifies its retail customers and wholesale customers of the disconnection dates for fibre rollout regions in accordance with the general principles at sections 8 and 21.
- (3) Without limiting subsection (1), the migration plan must require that, where Telstra continues to supply a retail customer in a fibre rollout region with fixed-line carriage services over a separating network four months before the disconnection date for that fibre rollout region, Telstra must notify that retail customer of the impending disconnection of fixed-line carriage services from that separating network no less than three months before the disconnection date for that fibre rollout region (whether or not Telstra has already provided notification of disconnection to that retail customer).

Division 3 General principle – equivalence regarding disconnecting Telstra retail business units and wholesale customers

21 General principle

The migration plan must provide for the equivalent treatment of wholesale customers and retail business units in the implementation of the processes for disconnecting carriage services from a separating network at premises in each fibre rollout region.

22 Specific principle – prohibition of marketing activity

- (1) The migration plan must specify that, where an agent or employee of Telstra is required to attend a premises in a fibre rollout region for the purpose of:
- (a) connecting a retail customer to a fixed-line carriage service provided over the NBN Co fibre network, where that carriage service is not, or is not to be, supplied to that retail customer by Telstra; or
 - (b) disconnecting a retail customer of a wholesale customer from a separating network;

the agent or employee is prohibited from undertaking any marketing activity.

- (2) Subsection (1) does not apply to a particular marketing activity engaged in by an agent or employee of Telstra if:
- (a) the marketing activity relates to the provision of services under the universal service obligation; and
 - (b) the Commonwealth has requested Telstra to conduct the marketing activity.
- (3) The migration plan must specify that, where an agent or employee of Telstra is required to attend a premises on behalf of NBN Co, the agent or employee is prohibited from undertaking any marketing activity.

Division 4 General principle – use of adequate processes

23 General principle

- (1) The migration plan must require Telstra to work in good faith with other industry participants to ensure that:
- (a) the processes for disconnecting fixed-line carriage services from a separating network at premises in fibre rollout regions; and
 - (b) local number portability processes;
- facilitate the migration of retail customers and wholesale customers in a way that is consistent with the general principles at sections 8 and 21.
- (2) The migration plan must require Telstra to use existing processes for implementing and managing disconnection (including existing local number portability processes) unless the ACCC or the independent telecommunications adjudicator determines that:
- (a) an existing process is inconsistent with the general principles at sections 8 and 21; and
 - (b) it is reasonable and practicable for Telstra to:
 - (i) amend, vary or modify the existing process, to the extent to which the existing process is within Telstra's control; or
 - (ii) develop disconnection measures in accordance with the specific principle at section 25;having regard to:
 - (iii) the costs to Telstra involved in taking the action specified at subparagraph (i) or (ii); and
 - (iv) the effectiveness of that action; and

- (v) the consequences of not taking that action and continuing to rely on the existing processes.
- (3) The migration plan must provide that, where the ACCC or the independent telecommunications adjudicator determines that paragraphs (2)(a) and (b) apply, Telstra must:
- (a) amend, vary or modify the existing process (but only to the extent to which Telstra is responsible for that process); or
 - (b) develop disconnection measures in accordance with the specific principle at section 25;

in order to ensure the process for managing disconnection is consistent with the general principles at sections 8 and 21.

24 Specific principle – specification of disconnection processes

- (1) The migration plan must set out the processes that will be required for a wholesale customer to lodge, and for Telstra to accept, process and execute, an order from that wholesale customer for disconnection from a separating network of wholesale carriage services supplied to that wholesale customer at premises in a fibre rollout region.
- (2) The migration plan must specify which processes will be used by Telstra to disconnect from a separating network the wholesale carriage services supplied to a wholesale customer at premises in a fibre rollout region in the various types of disconnection scenarios that may arise, including (without limitation):
- (a) the disconnection of fixed-line carriage services to a premises over a copper network in the course of connecting that premises to the NBN Co fibre network by pull-through;
 - (b) the disconnection of fixed-line carriage services over a copper line used by more than one carriage service provider to supply fixed-line carriage services;
 - (c) the disconnection of fixed-line carriage services over a copper line over which only a standard telephone service is provided.

25 Specific principle – development of disconnection measures

- (1) Where disconnection measures must be developed by Telstra in accordance with paragraph 23(3)(b), the migration plan must require such disconnection measures to be:
- (a) consistent with the general principles at sections 8 and 21; and
 - (b) approved by the ACCC or the independent telecommunications adjudicator.

- (2) The migration plan must give the ACCC and the independent telecommunications adjudicator the power to, in their discretion, undertake public consultation on the development of disconnection measures.

26 Specific principle – modifications to existing processes and disconnection measures

- (1) The migration plan must set out how a wholesale customer of Telstra may propose to Telstra a modification to an existing process set out in the migration plan.
- (2) The migration plan must set out how a wholesale customer of Telstra may propose a modification to any disconnection measures developed in accordance with the specific principle at section 25.
- (3) The migration plan must require Telstra, where it receives a proposal in accordance with subsection (1) or (2), to consider and consult in good faith with the wholesale customer about the proposal.

Note: The principle at section 33 requires that the migration plan include a dispute resolution arbitration process to apply to a dispute between Telstra and a wholesale customer.

Division 5 General principle – using standard Telstra operating systems, interfaces and processes

27 General principle

- (1) The migration plan must specify that Telstra must use standard Telstra operating systems, interfaces and processes to receive and process orders received by Telstra from a wholesale customer for the purposes of disconnecting from a separating network wholesale carriage services supplied to that wholesale customer at premises in a fibre rollout region, unless the ACCC or the independent telecommunications adjudicator determines that:
 - (a) use of a standard operating system, interface or process is inconsistent with the general principles at sections 8 and 21; and
 - (b) it is reasonable and practicable for Telstra to amend, vary or modify the operating system, interface or process, having regard to:
 - (i) the costs to Telstra involved in making the amendment, variation or modification; and
 - (ii) the effectiveness of that action; and
 - (iii) the consequences of not taking that action and continuing to rely on the existing processes.
- (2) The migration plan must provide that, where the ACCC or the independent telecommunications adjudicator determines that paragraphs (1)(a) and (b) apply

with respect to an operating system, interface or process, Telstra must amend, vary or modify the operating system, interface or process in order to ensure the operating system, interface or process is consistent with the general principles at sections 8 and 21.

Division 6 General principle – supply of information by Telstra to NBN Co

28 General principle

The migration plan must specify that Telstra will notify the ACCC in writing, from time to time, of:

- (a) the kinds of information that it will supply to NBN Co for either of the following purposes:
 - (i) the commencement of supply of fibre services;
 - (ii) disconnecting fixed-line carriage services from a separating network at premises in a fibre rollout region; and
- (b) the circumstances in which it will supply those kinds of information to NBN Co.

Division 7 General principle – protection of information

29 General principle

- (1) The migration plan must set out effective measures to ensure that any information that Telstra receives from NBN Co for the purposes of:
 - (a) the commencement of supply of fibre services; or
 - (b) disconnecting fixed-line carriage services using a separating network at premises in a fibre rollout region;cannot be used to gain an unfair commercial advantage over Telstra's wholesale customers.
- (2) The migration plan must set out effective measures to ensure that Telstra will not use information that it receives from wholesale customers under or in connection with the disconnection processes from a separating network to gain an unfair commercial advantage over those wholesale customers or other wholesale customers.
- (3) The migration plan must set out effective measures to protect confidential information relating to a wholesale customer that is disclosed to Telstra or that comes to the knowledge of Telstra in the course of the processes Telstra is required to undertake in accordance with the migration plan.

Division 8 General principle – commencing to supply fixed-line carriage services using the national broadband network

30 General principle

The migration plan must set out the action Telstra will take to commence to supply fixed-line carriage services to customers using the national broadband network.

Part 4 Procedural principles

31 Procedural principle – reporting framework

- (1) The migration plan must provide for the provision of timely and regular reporting on implementation of, and compliance with, the migration plan from Telstra to the ACCC through a planned reporting framework.
- (2) The planned reporting framework must describe a process for identifying, on an ongoing basis, whether or not the provisions of the migration plan continue to comply with the general principles.
- (3) The migration plan must provide that any reports provided to the ACCC by Telstra under a provision of the migration plan must also be provided by Telstra to the Commonwealth where the Commonwealth requests that Telstra provide such reports.
- (4) The planned reporting framework must provide the ACCC with sufficient information to monitor Telstra's compliance with, and the effectiveness of, the migration plan.
- (5) The planned reporting framework must provide that the ACCC may:
 - (a) consult with wholesale customers and other stakeholders on Telstra's compliance with the migration plan; and
 - (b) for the purposes of such consultation, disclose information which Telstra provides to the ACCC under this section (other than information that is commercially confidential).

32 Procedural principle – rectification

The migration plan must set out a process for rectification to apply in the event that the planned reporting framework identifies that the provisions of the migration plan do not comply with the general principles.

33 Procedural principle – dispute resolution

- (1) The migration plan must provide for an adequate dispute resolution process and mechanisms for potential disputes that may arise between Telstra and its wholesale customers under a provision of the migration plan.
- (2) The migration plan must provide for the independent telecommunications adjudicator to oversee a process to apply where a dispute arises between Telstra and a wholesale customer in relation to that wholesale customer under a provision of the migration plan.

34 Procedural principle – scope of modifications to processes

The migration plan must provide that

- (a) the ACCC; and
- (b) the independent telecommunications adjudicator;

must not make a determination under sections 23, 25, 27 or 32 that has the effect or likely effect of:

- (c) preventing Telstra from disconnecting soft dial tone to a premises at the date that is the relevant date for that premises under section 14; or
- (d) preventing Telstra from disconnecting no-order disconnection premises under section 9 within the applicable period under subsection 9(6); or
- (e) preventing Telstra from disconnecting no-order disconnection premises under section 10 within the applicable period under subsection 10(4); or
- (f) preventing Telstra from disconnecting each class of special services and special service inputs on and from a disconnection date determined in accordance with section 13; or
- (g) preventing Telstra from disconnecting any other fixed-line carriage services supplied using a copper line without notice when, as requested by a retail customer, Telstra disconnects a standard telephone service supplied using that line; or
- (h) preventing Telstra from disconnecting any other fixed-line carriage services supplied using a copper line without notice when, as requested by a wholesale customer, Telstra disconnects a wholesale line rental service supplied using that line.

35 Procedural principle – consultation with NBN Co

The migration plan must require Telstra to consult with NBN Co:

- (a) when amending, varying or modifying an existing process in accordance with paragraph 23(4)(a);
- (b) when developing disconnection measures in accordance with section 25;
- (c) when modifying disconnection measures in accordance with section 26;
- (d) under a process for rectification set out in accordance with section 32;
- (e) when notifying the ACCC in accordance with section 28;
- (f) when developing a required measure under a required measure development process included in the migration plan in accordance with section 36;
- (g) when providing written notice to the ACCC about a test procedure in accordance with section 37.

36 Procedural principle – required measure development processes

(1) This section applies where:

- (a) a provision of this Determination requires the migration plan to specify a particular process, business practice, measure or other matter (a *required measure*) dealing with a particular topic; and
- (b) on the date that it lodges the draft migration plan with the ACCC, Telstra is not in a position to specify, or fully specify, in the migration plan a required measure dealing with that topic because either:
 - (i) Telstra does not at that time have in place a required measure for dealing with that topic; or
 - (ii) the required measure Telstra has in place at that time for dealing with that topic does not satisfy all of the requirements imposed on the required measure by this Determination;

(2) Notwithstanding the requirement imposed by the provision of this Determination referred to in paragraph (1)(a), the migration plan may, instead of setting out the required measure, specify the process (the *required measure development process*) by which Telstra will, within six months of the migration plan coming into force or such longer period as the ACCC allows, develop the required measure and submit it to the ACCC.

(3) Where the migration plan provides for a required measure development process in relation to a particular matter, the migration plan must require Telstra to:

- (a) develop the required measure so that it complies with the requirements of this Determination; and
 - (b) consult with wholesale customers in the course of the development of the required measure; and
 - (c) publish on its website a work plan for development of the required measure which sets out the target date for completion and the key milestones, including for consultation with wholesale customers; and
 - (d) keep the ACCC regularly informed of Telstra's progress in developing the required measure, including:
 - (i) responding to any request for an update or information in respect of a work plan received from the ACCC; and
 - (ii) taking into account any matters raised by the ACCC in relation to the development of the required measure; and
 - (e) Telstra must lodge its proposal for the required measure with the ACCC for approval; and
 - (f) submit a required measure dealing with that matter to the ACCC within:
 - (i) six months of the migration plan coming into force; or
 - (ii) if a longer period is agreed by the ACCC for that required measure—that period.
- (4) Subsection (3) does not limit the matters that may be included in a required measure development process.
- (5) The migration plan must provide for the ACCC to consider a required measure given to it by Telstra in accordance with a required measure development process as though that required measure were a variation to the migration plan.

37 Procedural principle – test procedure processes

- (1) This section applies if the migration plan specifies a process (a *test procedure process*) for Telstra to undertake development or implementation testing of a new or modified process, system, interface or disconnection measure limited to particular geographic areas, services or customers (a *test procedure*).
- (2) The migration plan must require Telstra to give written notice to the ACCC prior to undertaking the test procedure specifying:
- (a) what is being tested; and
 - (b) the participants in the test; and
 - (c) the duration of the test.

- (3) The migration plan must require that, if the ACCC gives Telstra notice of the ACCC's concerns with the test procedure, then:
- (a) either:
 - (i) if Telstra has not yet commenced the test procedure—Telstra will not proceed with the test procedure; or
 - (ii) if Telstra has commenced the test procedure—Telstra will, as soon as practicable, cease the test procedure; and
 - (b) if Telstra wishes to proceed with the test, Telstra must give an amended notice to the ACCC addressing its concerns with the test procedure.
- (4) The migration plan must provide for the process set out in subsection (3) to be recursive, in that the ACCC may give notice to Telstra of its concerns in relation to an amended notice given to the ACCC by Telstra in accordance with paragraph (3)(b), with the obligations set out in paragraph (3)(a) applying equally to that later ACCC notice.

38 Procedural principle – cessation of migration plan

- (1) Subject to subsections (2) and (3), the migration plan must provide that the provisions of the migration plan will cease to have effect once every separating network in every fibre rollout region has been disconnected.
- (2) The provisions set out in the migration plan to meet the requirements of section 29 must never cease to have effect.
- (3) The provisions set out in the migration plan to meet the requirements of subsection 12(6) must never cease to have effect.

Schedule Special services

1 Specific special services

- (1) Subject to any condition specified in column 3 for that item, each of the fixed-line carriage services that is specified in an item of column 1 of Table 1 is a special service, including:
- (a) any of the products and product bundles provided by means of those fixed-line carriage services which are specified in column 2 of Table 1; and
 - (b) with the exception of the fixed-line carriage services specified at item 10 of Table 1—any other products or product bundles which are subsequently provided by means of those access services.
- (2) Each of the fixed-line carriage services that is specified in an item of column 1 of Table 2 is a special service, including:
- (a) any of the products and product bundles provided by means of those fixed-line carriage services which are specified in column 2 of Table 2; and
 - (b) any other products or product bundles which are subsequently provided by means of those access services.

Table 1 – special services (retail)

Item	Column 1	Column 2	Column 3
	Access Service	Product Bundles	Condition
1	<ul style="list-style-type: none"> • DDS Fastway 	<ul style="list-style-type: none"> • DDS Fastway • DDS Flexnet • DDS Local Area Service (LAS) 	

2	<ul style="list-style-type: none"> • Frame Relay 	<ul style="list-style-type: none"> • Frame Relay • Business IP Frame Relay • Connect IP Frame Relay • GBIP (proxy) 	
3	<ul style="list-style-type: none"> • Megalink 	<ul style="list-style-type: none"> • Megalink 	
4	<ul style="list-style-type: none"> • CustomNet Spectrum 	<ul style="list-style-type: none"> • CustomNet Spectrum 	
5	<ul style="list-style-type: none"> • Ethernet Lite BDSL 	<ul style="list-style-type: none"> • Ethernet Lite • Business IP Ethernet Lite • Connect IP Ethernet Lite • GBIP (Government Broadband IP) • 1 touch video 	
6	<ul style="list-style-type: none"> • ISDN10/20/30 	<ul style="list-style-type: none"> • ISDN10/20/30 Businessline • ISDN Dual Node • ISDN Diverse Access • Business Connect /2 • Business Options Connect • Business Premium Connect Corporate Connect • All-4-Biz 	
7	<ul style="list-style-type: none"> • ISDN2 	<ul style="list-style-type: none"> • ISDN2 Businessline 	

		<ul style="list-style-type: none"> • ISDN2 Enhanced BusinessLine • ISDN Xpress • Business Connect / 2 • Business Options Connect • Business Premium Connect Corporate Connect • All-4-Biz (newly released) 	
8	<ul style="list-style-type: none"> • DDS Low Speed 	<ul style="list-style-type: none"> • DDS Low Speed • DDS BIN (bank interchange network) 	
9	<ul style="list-style-type: none"> • VGDL 	<ul style="list-style-type: none"> • PAPL • Tie Lines • Voice Links 	
10	<ul style="list-style-type: none"> • STS / ADSL / ADSL 2+ 	<ul style="list-style-type: none"> • Remote Telemetry • Telstra Secure 	The service is only a special service if supplied for Remote Telemetry or Telstra Secure
11	<ul style="list-style-type: none"> • ATM (over copper) 	<ul style="list-style-type: none"> • N/A 	
12	<ul style="list-style-type: none"> • Payphones 	<ul style="list-style-type: none"> • N/A 	

Table 2 – special services (wholesale)

Item	Access Service	Product Bundles
1	<ul style="list-style-type: none"> • DDS Fastway 	<ul style="list-style-type: none"> • DDS Fastway • DDS Flexnet • DDS Local Area Service (LAS)
2	<ul style="list-style-type: none"> • Data Access Radial 	<ul style="list-style-type: none"> • N/A
3	<ul style="list-style-type: none"> • Frame Relay 	<ul style="list-style-type: none"> • Frame Relay
4	<ul style="list-style-type: none"> • Megalink 	<ul style="list-style-type: none"> • N/A
5	<ul style="list-style-type: none"> • Wholesale Transmission – CRA163 – Telstra domestic tail transmission capacity service 	<ul style="list-style-type: none"> • CRA163 – Telstra domestic tail transmission capacity service
6	<ul style="list-style-type: none"> • CustomNet Spectrum 	<ul style="list-style-type: none"> • CustomNet Spectrum
7	<ul style="list-style-type: none"> • Wholesale Business DSL (W-BDSL) 	<ul style="list-style-type: none"> • Business Data Access Service (BDAS)
8	<ul style="list-style-type: none"> • ISDN10/20/30 	<ul style="list-style-type: none"> • ISDN10/20/30 Businessline • ISDN Dual Node
9	<ul style="list-style-type: none"> • ISDN2 	<ul style="list-style-type: none"> • ISDN2 Businessline • ISDN2 Enhanced BusinessLine– Currently CNRs for call rates. Basic Access as per OCT.

10	<ul style="list-style-type: none"> • DDS Low Speed 	<ul style="list-style-type: none"> • DDS Low Speed • DDS BIN
11	<ul style="list-style-type: none"> • VGDL 	<ul style="list-style-type: none"> • N/A
12	<ul style="list-style-type: none"> • Telstra Traffic Light Service 	<ul style="list-style-type: none"> • N/A
13	<ul style="list-style-type: none"> • Wholesale ATM (over copper) 	<ul style="list-style-type: none"> • N/A
14	<ul style="list-style-type: none"> • ATM (Rebill) (over copper) 	<ul style="list-style-type: none"> • N/A
15	<ul style="list-style-type: none"> • Customer-operated payphones 	<ul style="list-style-type: none"> • N/A

2 Contracted services

Those fixed-line carriage services Telstra is required to provide over a separating network, until not later than 8 April 2017, under a limited number of Telstra retail contracts entered into before the date of this Determination and which contracts are identified in accordance with an agreement between Telstra and NBN Co given to the ACCC to which subsection 577BA(3) of the Act applies, are special services.