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Ms Nikki Vajrabukka
Director
NBN Migration & Service Continuity
Department of Communications

By email: migration@communications.gov.au

Dear Ms Vajrabukka

Submission regarding the draft Migration Assurance Policy

The ACCC welcomes the opportunity to further contribute to the development of the government's Migration Assurance Policy (MAP).

We strongly support improvements being made to the arrangements for migrating services to the National Broadband Network (NBN) to provide assurance to consumers that they can access services during and following the NBN transition period.

The government's draft MAP policy recognises the potential consequences for consumers if they are not adequately supported in their migration to the NBN. It also reflects the benefits of industry participants committing to and working together in order to provide a suitable level of support to consumers.

The ACCC agrees that the MAP should put the consumer at the centre of the migration process, with the primary objective being to minimise service disruption, prioritise continuity of service and assist vulnerable consumers.

We consider that this objective could be given greater prominence in the MAP and would be further supported by the following.

Developing measures targeted at consumers who will require additional assistance due to their particular circumstances

Experience to date has shown that the majority of consumers have been able to successfully migrate to the NBN. However, a material number of consumers have faced service continuity risks through no fault of their own.

Based upon this, we consider that industry is relatively well placed to support consumers in standard migration scenarios, but is less well placed to support other migrations. This includes where the end-user has complex requirements, including business applications or medical or fire alarms, which require additional information and planning to migrate successfully, or where the end-user is simply located in 'hard-to-connect' premises.

Consequently, the ACCC would support the MAP focusing primarily on promoting service continuity for those categories of end-users who have experienced difficulties to date, by exploring opportunities for:

- additional information and support for those consumers to overcome the particular factors that could otherwise inhibit the successful migration of their services to the NBN and
 - additional flexibility in the application of cease sale and managed disconnection rules for these consumers until such time that they can acquire a NBN service.
- *Additional information for consumers*

The draft MAP recognises the benefits of consumers being well informed in order to make choices that lead to a smooth migration.

The ACCC would recommend that in finalising the MAP, consideration is given to including measures that encourage RSPs to provide consumers with basic information, using a standardised format settled with industry input, on important matters that would affect migration choices they face. This could include information on:

- whether the RSP offers support for consumers with complex needs (e.g. consumers with business services or applications, medical alarms, or requiring battery back-up and priority assistance), and if so, the contact details to use to obtain this support and
 - the applicability of early termination charges for customers that are currently 'on contract' or any other charges consumers might incur in migrating to an NBN service.
- *Additional flexibility in application of cease sale and managed disconnection rules*

The draft MAP framework refers to Telstra lodging a draft varied Migration Plan with the ACCC on 20 March 2015.

In approving Telstra's varied Migration Plan on 26 June 2015, the ACCC's role was limited to assessing whether it was consistent with the legislative requirements. In our decision to approve the Plan, we noted that the need for further amendments to the migration and disconnection arrangements may become apparent as operational experience is gained.

In this regard, Telstra has already moved to provide extra time for some consumers with in train NBN orders to have their NBN service activated before they face managed

disconnection, and has publicly committed to reviewing its Plan to determine whether it could make further changes.

The ACCC supports Telstra's application of its Migration Plan so as to provide additional flexibility for those consumers with complex needs or in 'hard-to-connect' premises, including varying the Plan to accommodate suitable measures that emerge during development and implementation of the MAP.

Ensuring that the MAP measures support competition

The ACCC considers that it is important that measures developed under the MAP:

- support RSPs and Application Service Providers (ASPs) during the migration and
- do not inadvertently hamper RSPs from competing for new customers during the migration to the NBN.

Supporting RSPs and ASPs, such as providers of monitored medical alarms, will better enable them to assist end-users during the migration.

Further, rivalry between service providers will provide appropriate incentives to migrate consumers efficiently to the NBN, as well as providing additional assurance that consumers will have sufficient information to assist them during the migration. Importantly, a gaining RSP will have greater financial incentive to ensure efficient migration (including prompt activation of the NBN service).

Competition between RSPs will also bring additional benefits to consumers through the availability of a greater range of NBN products of differing price and quality, making it more likely that consumers will benefit from a NBN product that best suits their requirements.

– Ensuring all service providers are well informed of the network rollout

The benefits of additional transparency about NBN Co's rollout have been recognised by government in requesting the ACCC's advice on the issue, and in the advice we provided in May 2015.

More recently, we understand that ASPs have indicated that NBN technology choice would likely have implications for the migration of medical alarm applications onto the NBN. This lends further support to NBN Co providing direct access to rollout information to all RSPs and ASPs interested in providing services over the NBN.

– Maintaining flexibility to support early adopters and other end-users

The draft MAP indicates that government is considering increasing the percentage of premises that are connected to NBN infrastructure before NBN Co begins offering services in a region as a means to promote the MAP objectives.

The ACCC would support NBN Co continuing to defer acceptance of orders in an area until such time as it considers it is in a position to process those orders and activate services in a reasonably timely manner.

The ACCC would however support the MAP maintaining a degree of flexibility in this regard. Being too prescriptive could result in consumers having to wait unnecessarily before benefitting from improved services. Further, pre-installing additional NBN infrastructure to a greater proportion of premises may not be well suited to materially assisting those consumers with complex needs or those in hard-to-connect premises.

– ***Maintaining flexibility for consumers to choose when to migrate during the migration window***

The ACCC recognises that consumers placing an order early in the migration window could be a useful strategy for them to adopt to provide additional assurance of service continuity. Further, if a significant number of end-users delay submitting their NBN orders then this could result in a large volume of work that would make the migration task more difficult to complete successfully for all end-users.

That said, the ACCC would caution against the MAP developing measures that were directed solely at bringing forward large numbers of orders early in the migration window. This is because:

- some consumers would likely benefit from waiting until later in the migration window, e.g., for their current contracts to expire, or for other products to become available such as over the top services compatible with the NBN and
- concentrating NBN orders too heavily within a portion of the 18 month migration window could impede a positive migration experience for consumers (e.g., in having to wait longer after submitting their order for activation) where industry cannot meet the higher 'run rate' that would result.

The ACCC therefore suggests that within the context of encouraging an early migration of consumers, the MAP could note that consumers would need to consider their own particular circumstances before deciding an appropriate time to migrate within the 18 month migration window.

Additional transparency to assess whether the migration arrangements are delivering intended outcomes

As recognised by government's development of the MAP, there will be benefits by learning from operational experience and marshalling cooperation from diverse areas to respond to challenges as they arise.

In addition to government monitoring complaints-related data to identify problem areas that have arisen, the ACCC recommends that government also compile contemporaneous

indicators as to whether migrations are occurring in line with the MAP objectives, and that consideration is given to suitable reports being published to demonstrate this.

In this regard, periodic reports could be published showing the percentage of services that have migrated successfully to the NBN at different milestones during the applicable migration window. Additional detail could potentially be included to demonstrate the effect that particular MAP initiatives have had on these results.

Consumer awareness of scams associated with the migration to the NBN

The ACCC is aware that a number of scams relating to the NBN are tricking consumers into handing over their personal and financial details or buying equipment they do not need. These scams involve people pretending to be from NBN Co, government or a telecommunications service provider. The people then claim that the consumer needs to provide financial details or buy new equipment in order to connect to the NBN. The ACCC raised awareness about these scams in a media release on 13 March 2015.

A key element of the MAP is for consumers to be well informed about the migration process. As part of these activities, there may be an opportunity for RSPs to make consumers aware of the risk of scams and help them identify legitimate or otherwise communications from the industry. This may be similar to banks advising customers that they will never seek their personal details over emails.

Please contact me or Ed Seymour should you wish to discuss any aspect of this submission.

Yours sincerely



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