



Director
Telecommunications Competition
Department of Infrastructure, Transport, Regional Development and Communications
GPO Box 594
Canberra ACT 2601

By email: InfrastructureAndAccess@communications.gov.au

Dear Director,

RE: Telstra's request for extensions to Ministerial exemptions for its South Brisbane and Velocity networks.

ACCAN thanks the Department of Infrastructure, Transport, Regional Development and Communications for the opportunity to comment on Telstra's request for extensions to (*Telecommunications (Network exemption – Telstra South Brisbane Network) Instrument 2012* and *Telecommunications (Network Exemption – Telstra Specified Velocity Networks) Instrument 2012*).

ACCAN has engaged extensively with previous exemption requests sought by Telstra in relation to its South Brisbane and Velocity networks (the Networks). Our concerns with exemptions granted to date are predominantly in relation to:

- Limited consumer choice between retail service providers (RSPs) servicing the South Brisbane and Velocity footprints,
- The subsequent lack of an economy of scale that would deliver competitive service prices,
- Information asymmetries between providers and consumers surrounding the availability, capacity and pricing of services, and
- Technical constraints to the capacity of the Networks, resulting in services that do not meet consumer expectations.

Australian Communications Consumer Action Network (ACCAN)
Australia's peak body representing communications consumers

PO Box 639, Broadway NSW 2007

Tel: (02) 9288 4000 | Fax: (02) 9288 4019 | Contact us through the [National Relay Service](#)

www.accan.org.au | info@accan.org.au | [twitter: @ACCAN_AU](https://twitter.com/ACCAN_AU) | www.facebook.com/accanau

ACCAN's position on the exemption requests

It is disappointing that there is still no clear plan for how and when arrangements for services delivered over the Networks will fall in line with Parts 7 and 8 of the Telecommunications Act 1997 (the Act), despite:

- Telstra seeking exemptions from Parts 7 and 8 of the Act for the Networks on a rolling basis since 2011, when they have had ample time to develop alternative arrangements for the Networks,
- The consumer detriment and anti-competitive delivery of services having been brought to the attention of respective Ministers, and
- ACCAN's repeated re-iterations of our concerns about the consumer detriment caused by extending the exemptions, to both Telstra and the government.

ACCAN acknowledges the practical need for the Minister to grant the exemptions sought by Telstra in the absence of any alternative arrangements, given the proximity of the Designated Date of 1 July 2020. We are concerned that withholding an extension of the exemptions would create substantial service disruptions to affected customers, as Telstra has not put in place arrangements for a smooth transition by 1 July 2020.

However, Telstra's exemption requests lack sufficient accountability mechanisms to guarantee a timely sale of the Networks and transition to new arrangements. ACCAN considers that the following conditions should apply to address this problem:

- The exemptions be granted for either a period of 24 months (until 1 July 2022) or 90 days after the sale of the Networks, whichever comes first. By this time Telstra must have ceased control of the network and affected customers must be transitioned to new network arrangements.
- Telstra is subject to reporting requirements whereby it provides a detailed transition plan for ceasing control of the Networks to the Department and the ACCC, and periodically reports to the ACCC on the extent to which that plan is being met.

Historically, there has been limited impetus for Telstra to cease control of the Networks as illustrated by its repeated exemption requests. ACCAN considers increased regulatory oversight and shorter exemption timeframes will provide greater accountability and deliver better consumer outcomes.

Long-term issues with the Networks

As mentioned in previous representations on this issue,¹ we hold great concerns over the future of the Networks. The absence of strong competitive pressure placed on Telstra as the wholesale operator of the Networks has delivered unfavourable market outcomes and service standards for consumers, despite some limited intervention from the ACCC through its cap on the maximum price

¹ ACCAN (Australian Communications Consumer Action Network) 2018, [Telstra's South Brisbane Velocity Network – time for change](#), Sydney.

of wholesale services.² Although ACCC regulation places some restraints on Telstra’s ability to exercise anti-competitive behaviour, current arrangements do not provide adequate incentives for competitive retail-level pricing, or for the provision of broadband services in line with consumer expectations or alternative networks like the NBN.

While we do not have access to information on the exact number of RSPs operating within the Networks’ footprint, and the prices at which they offer services, we do know that the number of RSPs offering services over the Networks is very limited and has been reducing over the years.³ We are also contacted by consumers within the Networks periodically with complaints about their services.

Appendix A outlines two recent case studies brought to our attention by consumers using the South Brisbane network. These cases demonstrate in real terms the impact of limited choice and service capacity constraints in the Networks’ footprint.

As of December 2019, in the South Brisbane footprint alone (West End, South Brisbane and Highgate Hill SA2 statistical areas), there are:

- 1080 Age Pension recipients,
- 623 Disability Support Pension recipients,
- 776 Family Tax Benefit A recipients,
- 217 Carer’s Allowance recipients,
- 576 Youth Allowance recipients,
- 1833 Commonwealth Rent Assistance income recipients, and
- 831 Newstart/JobSeeker recipients.⁴

At a generous estimate, there are up to 8500 price-sensitive consumers in the South Brisbane footprint alone affected by a lack of choice of RSP, and potentially locked out of the home broadband market due to the flow on effects of the exemptions on retail service pricing. We expect that the impact the COVID-19 outbreak has had both on the Australian labour market, and Australians’ reliance on home internet connections, has significantly increased the number of consumers with difficulty affording services delivered over the Networks, and the number of consumers who require a home internet service. It has also brought into focus the technical inadequacy of the low upload speeds on the Telstra networks.

Removal of the expiration date for Carrier Licensing Conditions (CLCs)

In addition to granting Telstra’s exemption requests on a strictly limited basis, ACCAN supports the removal of the expiration date of the CLCs as proposed in suggested amendments to the *Carrier Licence Conditions (Networks supplying Superfast Carriage Services to Residential Customers)*

² ACCC (Australian Competition and Consumer Commission) 2017, [Superfast Broadband Access Service and Local Bitstream Access Service Final Access Determination joint inquiry - Final decision report](#), Sydney.

³ ACCAN (Australian Communications Consumer Action Network) 2018, [Telstra’s South Brisbane Velocity Network – time for change](#), Sydney, p. 4

⁴ DSS (Department of Social Services) 2019, [DSS Demographics December 2019](#).

*Declaration 2014.*⁵ The CLCs, which require certain types of non-NBN networks to operate separately to their retail functions, and to offer wholesale services to other RSPs on a non-discriminatory basis, are fundamental to facilitating competition on non-NBN networks. This instrument specifically allows providers who do not operate a non-NBN network to offer services over that network, placing downward pressure on prices. The removal of the instrument's expiration date of 30 June 2020 will ensure this arrangement is protected.

Final comments

While we acknowledge that it is necessary for the Minister to grant the exemption requests in the short term on this occasion to prevent major and widespread service disruptions for consumers within the Networks' footprint, we stress the need for direct oversight of and strict timeframes for the sale of the Networks and transition arrangements. We re-iterate that consumers who lack access to competitively priced services face unnecessary detriment when seeking access to essential communications, and that consumers on limited incomes bear this detriment disproportionately.

Thank you for considering our feedback. Please contact us on 02 9288 4000 or at Rebekah.Sarkoezy@accan.org.au if you wish to discuss our position further.

Sincerely,

Rebekah Sarkoezy
Policy Officer

⁵ DTIRDC (Department of Transport, Infrastructure, Regional Development and Communications) 2020, [2020 Extension of Carrier Licence Conditions Declaration for Superfast Carriage Services](#).

Appendix A: Consumer experiences of the South Brisbane Velocity network

CASE STUDY 1: Richard's story

Richard lives with his elderly mother in a house in South Brisbane. Richard was on an Exetel broadband plan on Telstra's velocity network, which cost \$39/month. A few years ago, he was disconnected in error when trying to change the name on his account and when he sought to re-connect his service, Exetel told him that they couldn't because his plan was no longer being offered and only Telstra serviced his address.

Richard receives a Centrelink Carer's Allowance. He talked to Telstra about getting a phone and internet plan, but he could not afford any of the available bundles. Richard was able to get a \$25/month concessional home phone service with Telstra due to his mother's eligibility as an age pensioner, but he relies on a portable 4G Vodafone WiFi dongle for internet access because it is all he can afford. His mobile broadband performance is poor, as he lives in a densely populated area where the network is frequently congested. Richard told ACCAN that it's unfair that he doesn't have a choice about which fixed broadband provider he can use.

CASE STUDY 2: Sami's story

Sami lives in South Brisbane and has a 100/1 Mbps broadband service with Telstra, delivered over the South Brisbane network. Sami works in IT and needed to start working from home due to the COVID-19 outbreak. Sami soon realised that her home internet connection could not sustain her working-from-home needs. She found that her plan's upload speed was far too slow to allow her to work effectively, and this negatively impacted her ability to work from home.