CARRIER LICENCE CONDITIONS (TELSTRA CORPORATION LIMITED) DECLARATION 1997 (AMENDMENT NO.1 OF 2006)

REGULATION IMPACT STATEMENT

Prepared by the Department of Communications Information Technology and the Arts

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1/. PURPOSE

This Regulation Impact Statement (RIS) examines the rationale for, and impact of, the *Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No.1 of 2006),* which amends the Network Reliability Framework (NRF) applying to Telstra.

The *Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No.1 of 2006)* gives effect to the Government's response to the *Network Reliability Framework Review 2004* (NRF Review) undertaken by the Australian Communications and Media Authority (ACMA).

2/. BACKGROUND

The Telecommunications Service Inquiry (TSI)

The NRF was first introduced on 11 December 2002 as a licence condition on Telstra, with operational effect from 1 January 2003, in response to Recommendation 11 of the Telecommunications Service Inquiry (TSI).

The report of the TSI, *Connecting Australia*, found that Australians generally have adequate access to a range of high quality, basic and advanced telecommunications services. However, it also found that many Australians who live and work in rural and remote Australia had concerns about key aspects of services.

A particular concern noted by the TSI was the incidence of faults - particularly multiple, recurrent faults experienced over a relatively short period of time. Recurrent faults clearly inconvenience telephone users and detract from the utility of their telephone services. Amongst other things, reliable telephone services are seen as important for safety and security reasons. Further, the TSI found there was a wide variation in fault levels, with some areas of regional and rural Australia experiencing relatively high fault levels. In this context, recommendation 11 of the TSI was that there be monitoring of fault levels at a highly disaggregated level, and that ACMA be empowered to direct a universal service provider (currently Telstra) to take specific action to remedy identified service reliability problems.

In July 2001, the Minister for Communications, Information Technology and the Arts (the Minister) directed ACMA to investigate and report on appropriate fault monitoring arrangements to give effect to the TSI recommendation. In its December 2001 report, *Monitoring and Reporting Framework for USO Service Reliability*, ACMA proposed the adoption of a three-tiered approach to fault monitoring, reporting, prevention and enforcement, to be known as the NRF. The aim of this framework is to prevent or reduce the incidence of recurrent faults on Telstra's network.

The Regional Telecommunications Inquiry (RTI)

On 8 November 2002, the Regional Telecommunications Inquiry (RTI) reported to the Minister on, amongst other things, progress in addressing the concerns identified by the TSI. The RTI identified high, localised fault levels and recurrent faults as a continuing problem. However, the RTI concluded that the NRF, if 'properly enforced and further refined' would 'force effective Telstra focus on, and investment in, its national network and deliver real benefits to regional, rural and remote Australia'. While making a number of observations, the RTI noted that these were largely matters of 'fine-tuning' that should appropriately be undertaken 'once the ACA [now ACMA] has some experience of how the NRF is operating'.

Recommendation 2.10 of the RTI was that:

> The Government should adjust and refine the NRF as necessary over time to improve its operation. These refinements should include expanding the range of fault information provided under the NRF, and providing greater clarity for Telstra and regional, rural and remote consumers about strategies to improve reliability under the Framework.

The Network Reliability Framework (NRF)

The NRF was first introduced on 1 January 2003.

Under the current NRF, Telstra is currently required to take action and report regularly to ACMA on faults in its network at three specified levels:

- the broader geographical level represented by Telstra's 44 Field Service Areas (FSAs) throughout Australia (Level 1);
- the local exchange service area (ESA) level, which concentrates on the remediation of identified pockets with poor network performance (Level 2); and
- the individual service level (Level 3).

ACMA's Review of the NRF

In 2004-05 ACMA, building on RTI Recommendation 2.10, conducted a review of the NRF to assess the effectiveness of the NRF in light of experience, particularly in relation to Level 2 of the framework.

ACMA released a discussion paper on the NRF and began a public consultation process in April 2004. Submissions closed on 14 May 2004. ACMA received and considered five written submissions to the NRF Review Discussion Paper, from the Western Australian Department of Industry and Resource, the Australian Competition and Consumer Commission, the Australian Telecommunications User Group, a member of the public (Mr Kidnapillai Selvarajah), and a detailed submission from Telstra.

In forming conclusions and making recommendations in the NRF Review, ACMA took into account submissions received in response to a discussion paper. ACMA submitted the final report on the NRF Review to the Minister in June 2005. This report is available at: www.acma.gov.au.

ACMA also drew on its experience of the NRF's operation between January 2003 and June 2005, as well as from the remediation of the 54 worst performing exchanges that Telstra undertook in response to the RTI Recommendation 2.9.

Recommendations of ACMA's review

ACMA made 14 recommendations as a result of its review of the NRF, focussing in particular on Level 2 of the framework.

Broadly, the changes to Level 1 recommended by the NRF Review were minor, and would formalise the reporting requirements on Telstra in relation to service performance.

The recommended changes to Level 2 provided that:

1. the level of disaggregation used for the Level 2 arrangements be increased so that cable runs, rather than ESAs, are the focus of performance monitoring and remediation;

2. Telstra identify at least 480 cable runs each year for remediation under Level 2;

3. cable runs be identified for remediation using monthly lists of worst performing cable runs;

4. minimum numbers of remediated cable runs be from smaller ESAs (these are usually in rural or remote areas);

5. remediation activity result in a minimum 90 per cent reduction in the number of network events (or faults) on a given cable run;

6. where a remediated cable run fails to deliver the expected performance (ie. the 90 per cent reduction), Telstra be required to undertake further investigation and remediation on the cable run; and

7. Telstra be required to provide sufficient data to allow ACMA to effectively oversee the operation of the new Level 2 arrangements.

ACMA considered that by increasing the level of disaggregation to cable runs, rather than ESAs, the new Level 2 arrangements would allow for more precise targeting of performance and therefore more efficient use of resources. The proposed new arrangements would also provide that a minimum amount of remediation is undertaken each year, providing defined benefits to consumers and capital expenditure certainty to Telstra. The proposed arrangements would also provide a greater focus on regional Australia, through mandating minimum remediation quotas for smaller ESAs.

The recommended changes to Level 3 were that:

1. when a service is identified as breaching the Level 3 thresholds and subsequent faults occur prior to the completion of remediation, Telstra should be required to provide an appropriate report to ACMA regarding the subsequent fault; and

2. there should be a six month 'watching period' following the two month Level 3 warranty period. If a related fault or service difficulty occurs during the watching period, Telstra must address the cause.

The recommended Level 3 changes were aimed to improve the existing reporting and monitoring processes, without affecting the robustness of the existing remediation processes (which the NRF Review found to be otherwise adequate).

The Government's preliminary response to ACMA's review

On 8 September 2005, in response to the NRF Review the Government announced that it would strengthen the NRF to provide that the most unreliable parts of Telstra's network, across Australia, are fixed quickly and efficiently. While not addressing specific recommendations of the NRF Review, the Minister did announce that Telstra would be required to automatically fix a minimum of 480 cable runs each year with a focus on the smaller exchange areas where Telstra is less likely to have a commercial incentive to upgrade its network.

Since that time, the Department of Communications, Information Technology and the Arts (DCITA) has been consulting with ACMA and Telstra on the details of amendments to Telstra's telecommunications carrier licence condition which will be necessary to implement the Government's response to the NRF Review.

3/. ISSUE IDENTIFICATION

The aim of the NRF is to prevent or reduce the incidence of high fault levels and recurrent multiple faults on telephone services. This is because of the inconvenience caused by faults and the impact of faults on the utility of phone services, particularly given the phone's importance as a lifeline.

It would be prohibitively expensive to construct and maintain a fault–free telecommunications network and some degree of faults is almost inevitable. It is

nevertheless desirable to minimise the incidence of faults and their duration. For example, services experiencing particularly high levels of faults can be targeted so their fault rates are reduced to average levels or better. This was the broad approach taken when the initial NRF was put in place.

The NRF Review found that the NRF had been broadly effectively, particularly in relation to Level 1. However, as indicated above a number of operational changes were recommended to improve its ongoing operation. The key issue for consideration for Government was whether adoption of ACMA's recommendations for the NRF was the most appropriate policy response.

4/. OBJECTIVES AND ASSESSMENT CRITERIA

The objectives against which the Government's response to the recommendations of the NRF Review need to be assessed can be summarised as:

- improving consumer awareness of, and confidence in the overall reliability of telephone services for residential and small business consumers;
- improving the operation of poorly performing parts of, and services provided by, the Telstra telephone network, particularly in regional and rural Australia;
- the costs they may impose on stakeholders, particularly Telstra; and
- their administrative practicality and efficiency.

The first two of these objectives are consistent with the purpose of the NRF set out in the Explanatory Statement to the *Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No.4 of 2002)*, which first established the NRF.

In assessing costs, the key cost components are:

- any new fault monitoring arrangements that Telstra would need to put in place;
- any new resources required to liaise with and report to ACMA (eg. staff and information technology);
- the cost to ACMA of administering and enforcing the new arrangements; and
- most significantly, the resources Telstra would need (eg. field staff, materials, equipment and capital) to undertake remediation and prevention activities in the field.

The key benefits of improvements to the NRF are to consumers (and also to Telstra and Telstra's wholesale customers), and are associated with improving service reliability and confidence. While these benefits are difficult to quantify, they include the convenience of being able to make and receive calls to transact essential business (often significant in rural and remote areas where the only other option may be to drive long distances), the value of business that might otherwise be lost (eg. being unable to take orders or bookings) and the intangible benefits of being able to maintain family and social contacts and being able to obtain (or give) assistance in the event of an emergency.

5/. STAKEHOLDERS

The key stakeholders who would be affected by the Government's response to the ACMA recommendations and whose interests need to be considered are:

- residential and business consumers of telephone services – as potential beneficiaries from improvements in fault rates resulting from enhancements to the NRF, and as potential losers to the extent that higher costs may be passed onto them;
- Telstra and its shareholders, including the Commonwealth – in terms of additional costs, competitive disadvantage, and possible loss in shareholder value;
- other telecommunications service providers - who will generally benefit from improved service levels, but could also face higher costs for wholesale services and through increases in ACMA licence fees; and
- ACMA - as the regulator required to administer any new regulatory requirements.

6/. DESCRIPTION OF OPTIONS

The main options available to the Government in response to the NRF Review are the following.

Option 1: Repeal of the NRF

While the NRF Review recommended the continuation of the NRF in a modified form, repeal of the NRF is a valid theoretical option and one that has, in fact, been advocated by Telstra. Option 1 would involve revocation of the current Telstra licence conditions that establish the NRF. Any fault reporting or remediation action would be a commercial matter for Telstra or otherwise be dependent on regulatory intervention by ACMA, to the extent possible under its existing powers. Telstra could argue that it has a commercial imperative, both in terms of maintaining customer satisfaction and in the face of increasing competition, to achieve and maintain low fault rates and to publicise such results.

Option 2: Continuation of the current framework

Option 2 would involve continuation without change of the NRF that is currently in place and that is described above. Telstra's licence condition, which sets out the NRF, is available at www.comlaw.gov.au.

Option 3: Implement the recommendations of the NRF Review

Option 3 would involve the full implementation of the recommendations of the NRF Review, as described in 'Recommendations of ACMA's Review' at section 2 above. This report is available at: www.acma.gov.au.

Option 4: Implement the recommendations of the NRF Review with adjustments

Option 4 would see the implementation of the majority of the recommendations of the NRF Review, with adjustments to take account of issues identified during subsequent

consultation with ACMA and Telstra, and during the preparation of the draft licence condition amendments. The most important of these adjustments would involve:

- the specification of minimum supporting data requirements in relation to Level 1 faults, to provide certainty over data requirements and improve transparency in relation to fault rates - this would be an adjustment to Recommendation 9 of the Review;
- the adoption of a more sophisticated and targeted process to be agreed in writing between Telstra and ACMA for ranking persistently poorly performing cable runs under Level 2 - this would be an adjustment to Recommendation 2 of the Review;
- the inclusion of poorly performing cable runs in metropolitan areas to guard against metropolitan 'blackspots' emerging under Level 2 - this would be an adjustment to Recommendation 3 of the Review;
- in the event of a fault occurring during a remediation period under Level 3, Telstra being required to review its planned remediation to ensure it addresses the root causes of those new faults - this would be an adjustment to Recommendation 7 of the Review;
- simplification of the monitoring and reporting arrangements that apply to a Level 3 remediation process - this would be an adjustment to Recommendation 8 of the Review; and
- requiring the further investigation and, if appropriate, remediation where a service undergoing Level 3 remediation experiences a further fault or faults - this would again be an adjustment to Recommendation 8 of the Review; and
- simplification of a range of reporting obligations through the replacement of separate reports on individual cable runs and CSG services with monthly reporting requirements.

Option 5: Significant tightening of the NRF

Option 5 would involve a significant tightening of the NRF in terms of Telstra reporting, thresholds for remediation, remediation requirements, ACMA oversight and ongoing monitoring. Option 5 was not an approach recommended by ACMA and would raise significant concerns about the cost-effectiveness of the NRF. This approach has not been developed in detail, but is discussed in conceptual terms in this RIS.

7/. ASSESSMENT OF OPTIONS AGAINST OBJECTIVES AND STAKEHOLDER IMPACT

This section of the RIS assesses the identified options against the policy objectives listed in the section 4 above ('Objectives and Assessment Criteria') with particular regard to their impact on relevant stakeholders (section 5 above). Telstra and ACMA provided estimates of their costs in complying with each of the options discussed below, but these figures have not been included for reasons of confidentiality and sensitivity.

Option 1

Option 1 would provide no guarantee that information would be published about the number of faults on the Telstra network, thus providing no certainty that consumer awareness and confidence goals would be achieved.

This option would also provide no guarantee that poorly performing parts of Telstra's network, and particularly those parts in regional and rural areas where commercial incentives and competitive pressures are lower, would be remediated.

This option would reduce compliance costs for both Telstra and ACMA, and would result in reduced overall costs to Telstra of the same order as its current costs in complying with the existing arrangements. For example, there would be reductions in NRF administration and reporting costs and, depending on how much remediation Telstra chose to voluntarily undertake, potential reductions in the cost of planning and undertaking remediation work on the ground. There would also be a reduction in costs to ACMA on monitoring, reporting and oversight costs.

These reduced costs may have flow-on benefits for shareholders and other industry players. However, these benefits would need to be balanced against the costs associated with having potentially more faults on Telstra's network, including costs to residential and small business consumers and to Telstra (for example, as a result of potential increases in CSG payments). As noted above, the key benefits of the NRF are to consumers (and also to Telstra and Telstra's wholesale customers), and are associated with improving service reliability and confidence. While these benefits are difficult to quantify, they are nonetheless considered to be significant.

Option 2

Option 2 would provide the same level of published information about fault levels on Telstra's network as now, and so would achieve the same level of consumer awareness and confidence. This option would also achieve the same level of network remediation as now, and retain the identified problems with Level 2.

This option would not result in any additional costs for Telstra or ACMA, over and above those associated with complying with and monitoring the existing NRF. These basically relate to Telstra's maintenance of NRF systems and the actual costs of remediation work under the scheme. Telstra already has extensive systems in place for monitoring faults for business operation and regulatory purposes, including for compliance with the existing NRF requirements. In relation to costs associated with reporting and liaising with ACMA, Telstra already has extensive systems in place for reporting faults and liaising with ACMA for regulatory purposes, including for compliance with the existing NRF requirements.

While these cost fall directly on Telstra and ACMA, they have some flow-on effect for Telstra shareholders and other providers, to the extent NRF costs are reflected in

wholesale prices and ACMA licence charges. As with Option 1, these benefits would need to be balanced against the costs of having potentially more faults on Telstra's network, including costs to residential and small business consumers as well as to Telstra. In summary, this option would see no improvements for consumers, no savings for Telstra or ACMA, and would perpetuate problems identified by both Telstra and ACMA with the existing framework.

Option 3

Option 3 would provide for greater transparency of fault rate data levels through the publication of additional fault information (ie. the number of services in each FSA that have not achieved 99 per cent availability in the preceding 12 calendar months). However, this needs to be balanced against some additional administrative costs on the part of Telstra and ACMA in publishing such data, and negative impacts on Telstra in terms of public perception if its performance is shown to be poor.

Option 3 would result in significant improvements to the existing Level 2 remediation arrangements, including better targeting of poorly performing parts of the network and a guaranteed minimum amount of remediation undertaken each year. This would result in a more efficient use of resources, although the actual costs to Telstra of undertaking this remediation work would be greater than under Option 2.

In relation to the costs of remediation, it is difficult to provide a reliable estimate of these costs until each identified cable is inspected, the problems are investigated, the solutions scoped and the work carried out. There is potential for the amount of work to vary significantly on a case by case basis. For example, some remediation activities may require a small cable or cable joint replacement, while others may involve extensive work, including the provision of optic fibre cable, network electronics and extensive cable replacement. The composition of the monthly or annual remediation programs under the NRF are not known in advance, and may vary significantly from month to month.

In this context, it is important to note that the proposed shift to cable runs under NRF Level 2 was initially proposed by Telstra in a submission to the NRF Review. Telstra also proposed the annual remediation quota of 480 cable runs for NRF Level 2. These submissions are understood to have been made on the basis that this level of remediation (which forms the basis for the majority of the changes under Options 3 and 4) would not be a significant burden on Telstra or its shareholders. For example, a Telstra submission to ACMA regarding the proposed new NRF Level 2 provisions states that:

> …the proposal relies on an existing system used by Telstra for its network rehabilitation program. By aligning the system underpinning NRF Level 2 with Telstra's process for national rehabilitation program, NRF Level 2 can utilize its data collection, processing and targeting methodology…The system has some tangible

advantages over previous programs used by Telstra to cost effectively reduce faults in the network.[1]

That said, it is worth noting that there was some disagreement between Telstra and ACMA over the definition of a cable run, and Telstra has argued that acceptance of ACMA's definition would result in significant additional costs for Telstra. These costs are reflected in Telstra's estimate below.

While there would be additional costs in some areas under this option (such as in relation to the remediation work required to be undertaken under Level 2), there would be reductions in other areas (such as in relation to Level 3 monitoring, which would be streamlined). While Telstra estimates that its overall costs are likely to be greater, the effectiveness of that expenditure would, relative to Option 2, be relatively greater as a result of better targeting and more efficient administration processes.

Counter-balancing these costs to Telstra, improvements to the NRF under this option would provide benefits to Telstra through better network performance. The improvements in network performance would lead to less fault repair, fewer complaints, fewer Customer Service Guarantee costs and improved goodwill. In addition, any expenditure by Telstra would appear to be a necessary investment in improving the quality of its services where that quality has proved wanting. Telstra already has extensive systems and processes in place to remediate poorly performing parts of its network, and the proposed new NRF arrangements would leverage off these existing arrangements and ensure that a proportion of Telstra's remediation activity is targeted to rural and remote areas with small exchanges.

Several of the proposed amendments under this option should reduce the existing regulatory burden on Telstra by simplifying reporting and monitoring processes (as would Option 4). For example, while the NRF Review did not recommend changes to the Level 3 remediation process, it did consider ways that the post-remediation monitoring processes could be streamlined and simplified. For example, the existing Level 3 process for monitoring services post-remediation has two separate 12 month stages. The NRF Review proposed that this be replaced by shorter 'warranty' and 'watching' periods. This recommendation would see a proposed new process that was clear, provided sufficient time to account for seasonal factors, and simplified compliance for Telstra.

Telstra has claimed that the cost of implementing the NRF Review recommendations in full would result in costs to Telstra that are greater than nine times its costs in complying with the existing arrangements. The majority of these costs are associated with the remediation requirements under Level 2. ACMA has estimated that its costs in implementing this option would be greater than those for Option 2.

[1] *Telstra's NRF Level 2 Proposals*, 12 May 2005, page 14.

Price controls on Telstra and market competition should limit Telstra's ability to pass on any additional costs of improving service reliability to consumers. Reliability requirements may, however, inhibit Telstra's ability to reduce its prices as quickly as it otherwise may.

Option 4

Option 4 may provide for greater transparency of fault rate data levels than Option 2, through the publication of supporting data by ACMA, if it decided that it was appropriate to publish that data. The requirement that ACMA consult Telstra before publishing the supporting data will ensure that any confidentiality issues are considered prior to any publication.

In general, this option would have many of the same broad benefits as Option 3, but would also improve the Level 2 processes and strengthen the Level 3 post-remediation monitoring arrangements, providing greater confidence that remediation of CSG services actually address the root causes of the problem and result in appropriate improvements to those services.

In developing amendments to implement the recommendations of the NRF Review, effort has been made to better leverage existing Telstra processes where possible, to limit implementation costs to Telstra. Similarly, key components of the existing Telstra process, including the definition network events and the proposed process for selecting poorly performing cable runs, have been incorporated into Option 4 to reduce implementation costs. There has also been considerable consultation between Telstra and ACMA over proposed new NRF reporting formats and procedures, including the exchange of 'mock reports'.

An important part of the process of leveraging Telstra's existing processes has been a move towards a narrower, more targeted definition of 'cable run', which will better target poorly performing parts of Telstra's network, while also reducing costs to Telstra. This definition provides that a cable run consists of all facilities between an exchange and the boundary of Telstra's network, and should include at least one set of 10 or 100 (as the case may be) copper wire pairs within a physical cable sheath. This reflects Telstra's standard copper network architecture, and means that Level 2 focuses on poorly performing parts of Telstra's network at a highly disaggregated level. This would result in lower costs for Telstra in adopting the proposed changes to Level 2, and is reflected in the significantly lower cost estimate for this option compared with Option 3.

Option 4 would result in significant improvements to the Level 2 and 3 over the current arrangements, including more targeted remediation work, streamlined reporting requirements and the leveraging of other existing Telstra processes. While there may be some additional costs associated with additional remediation under Level 3, these will be partially balanced by cost reductions due to additional streamlining of reporting requirements through the adoption of monthly reporting, and further simplification of the Level 3 post-remediation monitoring process by incorporating a single eight month monitoring period. In summary, costs will be more targeted towards the required

outcomes (actual improvements in Telstra's network) while simplifying reporting and oversight arrangements.

Telstra has agreed to this option, and has estimated that its implementation will result in costs to Telstra in the order of 4 times greater than its costs in complying with the existing arrangements, primarily as a result of the requirement to remediate minimum numbers of cable runs under Level 2.

ACMA has estimated that its costs in implementing this option would be greater than those for Option 2 but less than for Option 3.

Option 5

Option 5 could provide for greater transparency of fault rate data levels, depending on the approach taken. However, any increase in reporting and publication requirements needs to be balanced against additional administrative costs on the part of Telstra and ACMA in publishing such data, and negative impacts on Telstra in terms of public perception if its performance is shown to be poor.

Depending on the approach taken, Option 5 could result in more remediation work being undertaken under Levels 2 and 3, and increasing ACMA's ability to oversee this work. However, this would need to be balanced against additional costs to Telstra and ACMA in complying with these arrangements, including in relation to higher performance thresholds and additional remediation requirements and more stringent monitoring arrangements. Telstra has not provided an estimate of costs associated with this option, but it can be assumed that these would be in excess of the estimates provided for implementing Option 3. ACMA has estimated that its costs in implementing this option may be greater than those for Option 3.

In summary, Option 5 may result in monitoring and oversight arrangements that were inflexible and difficult to administer, increased costs for Telstra and ACMA, and an unreasonable balance between the amount of remediation work that Telstra is required to undertake and the benefits associated with reduced fault levels.

8/. COMPARATIVE ASSESSMENT OF OPTIONS AND PREFERRED OPTION

Given the issues initially identified by the TSI and the RTI, and those subsequently identified by the NRF Review in relation to the operation of the existing NRF, either revoking the NRF entirely or leaving the existing NRF in place (Options 1 and 2) are not justifiable.

Option 1 would result in the situation where any fault reporting or remediation action would be a commercial matter for Telstra or otherwise be dependent on regulatory intervention by ACMA, to the extent possible under its existing powers. Telstra could argue that it has a commercial imperative, both in terms of maintaining customer satisfaction and in the face of increasing competition, to achieve and maintain low fault

rates and to publicise such results. However, information gathered by the NRF indicates that the NRF has, to date, been operating successfully in requiring Telstra to monitor, report and remediate poorly performing parts of its network. At least some of these poorly performing parts are in rural and remote areas where competition pressures and commercial imperatives for Telstra to undertake voluntary remediation are lower.

Option 2 would not result in any consequent improvements for consumers, and would perpetuate the existing problems identified by both Telstra and ACMA with Level 2, and would also fail to streamline the processes associated with Level 3. Given the findings of the NRF Review, this option seems difficult to justify.

Option 3 has a number of advantages, including significant improvements to Level 2 and the partial streamlining of the Level 3 processes. This option is the result of consultation undertaken by ACMA in undertaking the NRF Review, and the broad structure of the changes to Level 2 are supported by both Telstra and ACMA. However, in further consultation with ACMA and Telstra, a number of issues have been identified with several of the recommendations of the review, and it would be preferable also to address these issues at this time.

Option 4 would retain the benefits of Option 3, but would also address some minor issues identified during consultation. As such, it adopts existing Telstra processes where appropriate, and streamlines monitoring and reporting processes while focusing on achieving the best remediation outcomes. It is expected that this option would result in a reduced compliance burden on Telstra compared to Option 3 and a more efficient use of resources, while also enhancing ACMA's ability to monitor Telstra's performance against the new requirements.

Option 5 would see a substantial strengthening of the framework, possibly including more stringent fault thresholds for Level 3, increased remediation quanta under Level 2, and more robust monitoring and oversight arrangements. This would possibly provide additional benefits to consumers through a more robust and fault free network, but would result in additional costs for both Telstra and ACMA. Given the finding of the NRF Review that the NRF has been basically successful in influencing Telstra to enhance the performance of its network, and that Telstra has generally complied with the requirements of the existing framework, such a substantial reworking of the whole framework seems unjustified at this time. If Telstra were to begin 'gaming' the system and not complying with the requirements of the NRF, or if the Government decided that additional remediation should be undertaken under the NRF, this option could be revisited at the next scheduled review of framework.

Given its performance against the assessment criteria, its relative impact on stakeholders and performance relative to the other options, Option 4 is the preferred option.

9/. CONSULTATION

The TSI consulted widely with community groups, consumer representatives, industry representatives, and state and local Government officials in identifying concerns about fault levels in Telstra's network. As noted above, based on further such public consultation, the RTI identified ongoing concerns in this regard.

ACMA released a discussion paper on the proposed NRF amendments and began a public consultation process in April 2004. Submissions closed on 14 May 2004. ACMA received and considered five written submissions to the NRF Review Discussion Paper, including a detailed submission from Telstra (see 'ACMA's Review of the NRF' of section 2 above for details).

Subsequent to this consultation, DCITA has consulted closely with Telstra and ACMA in developing the detail of the proposed amendments. This has included consultation on the estimated costs of implementing each of the five options discussed in the RIS. DCITA has also consulted with the Departments of Prime Minister and Cabinet, Finance and Administration, Treasury and Transport and Regional Services, most recently on 22 June 2006.

Any amendments to the NRF would need to be implemented through amendments to Telstra's carrier licence conditions. Under subsection 64(1) of the *Telecommunications Act 1997*, the Minister must, prior to imposing a licence condition, provide the carrier with a draft version of the instrument proposing the variations and invite the carrier to make submissions on the draft. Under these provisions, Telstra was provided on 1 June 2006 with a copy of a draft licence condition. Telstra's formal comments on the draft licence condition were received on 5 July 2006. Telstra's comments have been fully considered and several of its suggestions have been incorporated in the final licence condition amendments.

10/. IMPLEMENTATION AND REVIEW

As noted, the amendments to the NRF need to be implemented through amendments to Telstra's carrier licence conditions. The final licence condition amendments will take effect from 1 October 2006.

The revised NRF will be subject to close ongoing monitoring with a view to assessing its effectiveness, operation and impact on stakeholders. This will allow the NRF's utility to be considered by the Regional Telecommunications Independent Review Committee's legislated review in 2008.