

Nortel Networks UK Pension Plan

November 2012

Dear Member

Nortel Pension Update Letter 2012

As we approach the fourth anniversary of the Nortel insolvency we summarise in this letter the developments that have taken place over the last 12 months. For completeness and ease of reference we have included and updated some of the information contained in previous letters. Although we share your frustration at the absence of a tangible result to recovery activities, we can assure you that we have made good progress and are now in a position to participate effectively in the mediation referred to below.

While the insolvency process continues, members' current and future pensions are and will be secured in accordance with the rules of the Pension Protection Fund (PPF) and members will continue to be entitled to applicable PPF level benefits as a minimum.

The principal objective of the Trustee is unchanged and that is to secure improved benefits compared to the minimum level guaranteed by the PPF. However, this is fundamentally dependent on how successful we are in recovering funds from the Nortel insolvency proceedings both in UK and overseas. If we manage to recover at least an estimated £700 million then we will have the opportunity to try and 'buy' better than PPF benefits by purchasing annuities for both pensioner and deferred members from insurance companies. If we are able to purchase these better benefits then they will be secured for members. If this cannot be achieved, then the Plan will become the responsibility of the PPF and members will continue to receive applicable PPF level compensation.

The sale of Nortel assets is now complete to all intents and purposes and the \$7.7 billion realised is held securely pending agreement on how it is to be divided between the various Nortel companies in insolvency proceedings. The Plan's sponsoring employer, Nortel Networks UK Limited (NNUK), has now ceased trading and the small number of employees remaining with it are assisting the administrators in their own recovery activities and the winding up of Nortel's European companies.

The work carried out in the past year has been mainly associated with our recovery activities but we must still continue with the PPF Assessment process. Brief details are as follows.

PPF Assessment and Plan Administration

Whilst we do not yet know if the Plan will eventually become the responsibility of the PPF, we are obliged to act as if this might happen. Our Plan Administrators, Towers Watson, have continued to be involved in a number of tasks behind the scenes over the last year, including:

- Working in conjunction with HMRC to ensure all of the Plan's contracted-out membership records reconcile with those held by HMRC. Good progress has been made on this project with over 80% of the Plan's records now verified. This work needs to be undertaken irrespective of whether the Plan ultimately becomes the responsibility of the PPF or not and, in this respect, improvement of our data records will ensure that liabilities can be more accurately assessed.
- Carrying out a Benefit Audit to ensure benefit payments have been correctly calculated in accordance with the Plan rules.
- Continuing to work in conjunction with a specialist tracing bureau, to ensure correct up-to-date address details are held for all members in the Plan.
- Checking that equalisation of benefits between male and female members had been carried out correctly and making adjustments as necessary.

During PPF Assessment, Towers Watson will continue to be responsible for administering the Plan on a day to day basis, settling benefits as they become payable and acting as the first point of contact for any questions you may have.

One of the duties we have is to ensure that Plan funds are only paid to genuine Plan members or their beneficiaries. In this respect, we will participate in the National Fraud Initiative 2012 that is operated by the Audit Commission to prevent and detect fraud. Accordingly, we will provide summary details of all Plan

members/beneficiaries to the Audit Commission so that they can compare this with information provided to them by the Department for Work and Pensions (DWP) listing deceased persons. This will ensure that pensions are not being paid/held for any members/beneficiaries who have died.

Recovery of funds from insolvency proceedings

We mentioned in our last letter that the US and Canadian courts had appointed a new mediator - the Honourable Warren K. Winkler - the Chief Justice of Ontario, Canada. Those of you who have been able to follow announcements on our website www.nortelpensions.com will know that he held an introductory meeting in Toronto in April this year. In his opening statement the Chief Justice reminded the parties that "... There is no single jurisdiction [*country in the world*] with the ultimate, final authority in the matter [*Nortel insolvency*]; no final court of appeal or supreme court with the power to issue a decision that conclusively determines the outcome of litigation. ...". Following this opening statement, we attended a short private meeting with the Chief Justice together with the PPF and jointly outlined the history of our claims and our approach to this new attempt at mediation

From the foregoing you will appreciate that a negotiated settlement between the parties remains our main objective. However, we are nevertheless obliged to participate in certain court activities both in UK and North America to protect our position in the event that mediation fails to produce a result. More detailed information on the history of court activities/decisions is given in the Appendix to this letter but, in summary, since we last wrote to you:

- There has been no further activity in respect of Financial Support Directions (FSDs) against Nortel European companies;
- The ranking of an FSD under UK insolvency law will now be finally determined by the UK Supreme Court in a hearing that is scheduled to commence on May 14, 2013.
- There are now no further avenues of appeal in the US in respect of the actions of the Pensions Regulator (tPR) who was held to have breached US insolvency procedures and was not granted the usual exemptions accorded to governmental units. However, it is important to understand that this does NOT affect the ability of the Trustee/PPF to pursue its own claims in the US Bankruptcy Court. In this respect, we submitted a detailed claim in September 2012 and we now await further developments. In due course, and in the absence of a settlement, this court will rule on our claim.
- There has been no further substantive progress in respect of our claims in Canada. These claims include those related to guarantees by Nortel to the Plan which were set up prior to insolvency.

In summary, our main focus is the mediation and we are ready to provide the Chief Justice with whatever information he requests and to participate in discussions with any/all other parties with a view to maximising the return to our members. We will continue to update the Q&A and other announcements on our website as and when there are significant developments to report so please take a look from time to time. If any of you would like to see a copy of the Q&A and other announcements but do not have access to the internet then please write to Towers Watson at the above address and they will send a copy to you together with any future updates.

Yours sincerely,

David Davies
Chairman, Trustee Board
Nortel Networks UK Pension Plan

Appendix to Member Letter November 2012

The Plan is a creditor of its former sponsor NNUK and a claim has been lodged with NNUK's administrators for the Plan deficit as at the date of insolvency. Note that information on court activities/decisions set out below does not impact the validity or conduct of this claim in any way.

Summary of court activities and decisions

for completeness and ease of reference, we have included much of the information provided in previous letters and announcements

UK Activities – Financial Support Directions (FSDs)

- In January 2010 tPR issued a Warning Notice against a number of Nortel companies in the US, Canada and Europe which, as the name suggests, warned them that tPR was considering exercising its powers under the Pensions Act 2004 to issue FSDs against them. In June 2010 the Determinations Panel (DP) of tPR determined that FSDs should be issued in respect of a number of Nortel companies (or "Targets") in the US, Canada and Europe.

The administrators for the European Targets appealed this determination to the Upper Tribunal. That appeal has not substantively progressed.

However, in April 2011 the DP issued FSDs against four North American Nortel companies. These directed each company, as soon as is practicable, to provide tPR with proposals detailing the financial support they will provide to the Plan. No proposals have yet been received – please refer to US Activities and Canadian Activities below for further information.

UK Activities – Ranking of FSDs under UK insolvency law

- Following the DP determination above, lawyers acting on behalf of the administrators for the European Targets became concerned that UK insolvency law was unclear about how an FSD (or a Contribution Notice (CN), which tPR can issue if an FSD is not complied with) should be treated in terms of its "ranking" in the priority order of creditor claims. Broadly speaking, the possible options were for an FSD or CN (a) to rank as an expense of the administrations or liquidations of the Target entities and thus enjoy priority over the majority of other types of claims or (b) to rank as a provable debt in the administrations or liquidations among other unsecured claims or (c) to be a non-provable claim payable (if at all) only out of any surplus that might be available for distribution to shareholders after all creditors had been paid in full. We are pleased to report that the court decided an FSD or CN should be treated as an expense of an administration or liquidation if issued against the relevant companies in such a process. This decision was upheld by the Court of Appeal in October 2011 but the administrators have now further appealed this judgment and it has been listed for hearing by the Supreme Court commencing on May 14, 2013.

US Activities

- The issuance of a Warning Notice against US companies was held to breach US bankruptcy proceedings and hence tPR's regulatory proceedings in the UK were treated as null and void by the US Courts. This ruling was upheld by the US District Court in March 2011 and subsequently by the US Court of Appeals for the Third Circuit in December 2011. We sought permission to further appeal this ruling but the US Supreme Court decided not to grant this request and hence all avenues of appeal on this matter have been exhausted.

However, it should be understood that this matter related **only** to the US Court's decision that actions taken by tPR breached what is known as the 'automatic stay' in US bankruptcy proceedings. Put simply, this means that the action tPR took to have FSDs issued occurred after the commencement of the US bankruptcy proceedings and they were not granted the exemption normally accorded to governmental units enforcing a public policy interest.

This does not mean that the adjudication of Trustee's/PPF's claims against the relevant US Nortel entities is at an end. The Trustee/PPF remain free to pursue their claims against the relevant US Nortel entities in the US Bankruptcy Court and hence in July 2012 we were ordered by this Court to submit a more definite statement of our claims on or before September 5, 2012. This was duly submitted and we now await further developments. In due course, and in the absence of settlement, the US Bankruptcy Court will rule on the Trustee's/PPF's claims and we intend to pursue them vigorously.

Canadian Activities

- The issue of a Warning Notice by tPR against Canadian companies was held to have infringed Canadian insolvency processes. tPR appealed this decision to the Canadian Appeal Court and the original judgment was upheld. tPR then sought leave to appeal to the Canadian Supreme Court and this was refused in January 2011. Whilst unwelcome, these decisions do not prevent the Trustee and

PPF from asserting their claims as part of the normal Canadian insolvency procedures (including guarantee claims which were in place prior to commencement of insolvency proceedings) and in this respect we revised and updated our Canadian claims in November 2010. There has been no further substantive progress on these claims.

Mediation activities

- The first two mediations held in New York in November 2010 and April 2011 did not result in agreement between the various parties. In June 2011 the Honourable Warren K. Winkler (the Chief Justice of Ontario, Canada) was jointly appointed as mediator by the US and Canadian bankruptcy courts. Various court activities in the US prevented the Chief Justice from moving forward immediately but in April 2012 an initial meeting with all interested parties was held in Toronto and the opening remarks of the Chief Justice can be seen on <http://nortelmediation.com> - we anticipate this website will be kept up to date with further public announcements in due course.