

CRTC 2013-551: REVIEW OF WHOLESALE SERVICES & ASSOCIATED POLICIES

CYBERA

DECEMBER 17, 2013

SUMMARY

- **The Commission (the CRTC) has initiated a proceeding to review the regulatory status of wholesale policies and associated services**
 - Wholesale services framework
 - Wholesale service pricing
 - Mandating new wholesale services
 - E.g. fibre-to-the-premises facilities
- **The purpose of wholesale services is to facilitate competition in retail markets to provide Canadians (consumers) with increased benefits (e.g. choice)**

STATUS

- **Revised intervention deadline: 31 January 2014**
 - CRTC 2013-551-1
 - PIAC filed an extension on behalf of itself and other parties
 - Bell Aliant Regional Comm.; Bell Canada; Canadian Network Operators Consortium (CNOOC); Primus Telecom.; Rogers Comm.; SaskTel; Shaw Cablesystems; Telus; Videotron
- **Revised CRTC Public Hearing Date: 24 November 2014**
 - NB: filed interventions must indicate intent to (not) attend the public hearing

Milestone	Date
1 st intervention due	31 January 2014
Requests for information (round 1) issued	March 2014
2 nd intervention due	June 2014
Requests for information (round 2) issued	July 2014
Replies	October 2014
Public Hearing	24 November – 5 December 2014
Final written submissions	December 2014

DEFINITIONS

Phrase	Definition
The Commission	The CRTC
LICs – Large Incumbent Carriers	Incumbent Local Exchange Carriers (ILECs) + large cable companies ILECs: Bell Aliant Regional Comm.; Bell Canada; MTS; SaskTel; Telebec & Telus Large cable companies: Cogeco; Rogers; Shaw; Videotron
Competitors	Other incumbent carriers e.g. small ILECs and Northwestel Inc.
Consumers	The Canadian public
The Act	The Telecommunications Act

WHOLESALE SERVICES (WS)

- **TELECOM Decision 94-19 – Unbundling of wholesale services**
 - LICs are mandated to provide unbundled wholesale telecom services to competitors
 - Enables competitors to lease specific network components/facilities from LICs without having to subscribe to a full-spectrum service
 - Primary use - enables competitors to EXTEND their networks
 - Other uses: facilitate orderly development of the Canadian telecom system (e.g. 911); optimize use of telecom infrastructure
- **Model:** increased competitor access to wholesale services drives competition which leads to more choice, products & lower prices for consumers

WHOLESALE SERVICES

- **TELECOM Decision 97-8 – framework for Local competition**
 - Introduced the “Essential Services” concept and pricing (\$) framework that LICs must adhere to
 - Other wholesale services were also unbundled and priced similarly
- **TELECOM Decision 2008-17 – revised the WS framework**
 - Redefined an “Essential Service”
 - Established 6 service categories and assigned each wholesale service to a service category with pricing regulation
 - Services deemed “non-essential” were phased out (3 – 5 years)
 - After which they are de-regulated (e.g. ethernet AS & ETS)
 - Called for an omnibus review of WS after 5 years (2013!)

SERVICE CATEGORIES

1. Essential
2. Conditional essential
3. Conditional mandated non-essential
4. public good
5. Interconnection
6. Non-essential subject to phase out

AN ESSENTIAL SERVICE:

- **The facility is required as an input by competitors to provide telecom services to a downstream market**
- **The facility is controlled by a firm that possesses upstream market power**
- **It is not practical or feasible for competitors to duplicate the functionality of the facility**

FRAMEWORK FOR THE REVIEW

- **The impetus:** due to the rapid pace of technological evolution and shifting consumer demands the telecom landscape has changed and thus the regulatory landscape needs an update
- The Commission will adhere to the policy objectives set out in the Act (section 7) and Policy Direction:

Section 7 (the Act)	Policy Direction (CRTC 2006-1534)
7(a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions	1(a)(i) rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives;
7(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada	1(a)(ii) ... use measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives
7(c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications	1(b)(ii) ... neither deter economically efficient competitive entry into the market nor promote economically inefficient entry
7(g) to stimulate research and development in Canada in the field of telecommunications and to encourage innovation in the provision of telecommunications services	1(b)(iv) ... ensure the technological and competitive neutrality of those arrangements or regimes, to the greatest extent possible, to enable competition from new technologies and not to artificially favour either Canadian carriers or resellers
7(h) to respond to the economic and social requirements of users of telecommunications services	

ISSUES TO BE EXAMINED

- **Market definitions and conditions**
- **Consumer impacts:** assess consumer-level impact of WS regulation
- **Investment**
- **Service categories and classification of existing WS**
- ***Wholesale high-speed access (HSA) services***
- **Additional new WS**
- **Forebearance for WS:** any additional WS & reassess previous WS forbearance
- **Negotiated agreements:** reassess if forbearance for off-tariff negotiated agreements for certain WS remains appropriate
- **Rate setting for wholesale services (15% mark-up for essential & cond. ess.)**
- **Withdrawal of wholesale services:** reassess withdrawal process
- **WS Performance measurement and future review:** KPI
- **Application of determinations:** reassess which carriers are subject to WS services framework & the extent of their obligation

WHOLESALE HSA SERVICES

- **Previous decisions (2010-632, 2011-703, 2011-704 and 2013-70) have addressed issues associated with wholesale HSA services**
 - LICs are required to offer wholesale HSA services to competitors at speeds matching their own service offerings
 - Creates competition in retail Internet services market
 - Cable companies were required to modify their 3rd party Internet access services to provide access through as few interconnection points as possible (aggregation)
 - Increases transmission efficiency
 - Carriers have begun deploying fibre-to-the-premises (FTTP) facilities, the Commission wants to study:
 - The current state of deployment
 - The (socio)economic impact of this technology on consumers, competitors and LICs
 - What regulatory intervention is needed WRT mandated sharing of FTTP facilities?
 - Do any additional wholesale HSA services need regulation?

CALL FOR COMMENTS

- 1. Assess the appropriateness of the current approach in evaluating whether the market for a service is sufficiently competitive? What new factors should be considered? Do specific WS require a different approach?**
- 2. Explain the current market conditions associated with mandated WS, and identify and explain what future trends might influence these conditions (e.g. regional differences).**
- 3. Does the existing WS framework provide enough incentive for LICs and competitors to invest and innovate? Are there any pros/cons to the existing WS framework?**
- 4. What changes in the WS framework are required for:**
 1. Current service categories and classification of mandated WS
 2. New wholesale HSA services (should they be mandated and i.d. the impact)
 3. Additional new WS
 4. Forbearance
 5. Negotiated agreements (off-tariff – different from Commission-approved)
 6. Pricing for WS
 7. Withdrawal of WS
- 5. Identify/establish KPI for the WS framework**
- 6. If/when should there be another omnibus review of WS**
- 7. Which carriers should be subject to the WS framework, the extent and criteria?**

SERVICE CLASSIFICATION

Service Category	Service
Essential	<ul style="list-style-type: none">• Subscriber listing information
Conditional Essential	<ul style="list-style-type: none">• Unbundled local loop facilities and related services• Competitor digital network DS-0 and DS-1 access facilities• ADSL access service
Conditional Mandated Non-Essential	<ul style="list-style-type: none">• Co-location and related link services• Aggregated ADSL and 3rd party Internet access services• Other
Public Good	<ul style="list-style-type: none">• Emergency services• Support structure services
Interconnection	<ul style="list-style-type: none">• Required to permit interchange of traffic with PSTN customers• Interconnection between LEC networks• Interconnection between wireless and wireline networks
Non-essential (phase-out)	<ul style="list-style-type: none">• Low-speed CDN transport facilities• Fibre-based access and transport, and related services• Other