



Telecom Decision CRTC 2006-58

Ottawa, 18 September 2006

Canadian Cable Telecommunications Association – Part VII application regarding the application of some competitive local exchange carrier (CLEC) obligations to certain CLECs

Reference: 8622-C13-200510695

In this Decision, the Commission relieves certain competitive local exchange carriers (CLECs) of the requirement to meet, and file tariffs for, the equal access obligation at this time. The Commission also determines that those CLECs must meet all the remaining CLEC obligations, with some modifications, as set out in Local competition, Telecom Decision CRTC 97-8, 1 May 1997, either directly or through the facilities or agreements of a third party.

The application

1. The Canadian Cable Telecommunications Association (CCTA)¹ filed a Part VII application, dated 9 September 2005, in which it requested that the Commission refrain from applying certain competitive local exchange carrier (CLEC) obligations, as established in *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997 (Decision 97-8), to certain CLECs that wished to enter the local telephone market in their respective serving areas using voice over Internet Protocol (VoIP) platforms. The CCTA defined those certain CLECs as Group 2 CLECs which included "smaller CLECs" and especially smaller cable companies with total telecommunication revenues of less than \$10 million per year. A list of relevant CLEC obligations is attached to this Decision, and the complete list of CLEC obligations can be found at the following website: www.crtc.gc.ca/eng/public/2003/8180/CRTC/clecobl.htm.
2. Specifically, the CCTA submitted that the requested relief should apply to the following CLEC obligations:
 - obtain at least one central office (CO) code or NXX code for each incumbent local exchange carrier (ILEC) exchange in which it provides services (direct access to numbering resources) (item 1);
 - provide interconnection arrangements (items 2, 3, 4, 5, 6, 7, 9, 12 and 13);
 - file proposed tariffs and inter-carrier agreements (items 2, 3, 4, 5, 6, 7, 9, 11, 12 and 13);
 - provide equal access arrangements to interexchange carriers (IXCs) (item 8);

¹ The Commission notes that the CCTA ceased to operate in February 2006 and that sponsorship of this application was transferred to the Canadian Cable Systems Alliance.

- provide directory listings to other local exchange carriers (LECs) (item 11);
 - implement local number portability (LNP)–but only in an inbound direction (item 14); and
 - file serving area maps with the Commission and make them available upon request (item 18).
3. The CCTA submitted that Group 2 CLECs should continue to be required to fulfill the following CLEC obligations:
- implement LNP–but only in an outbound direction (item 14);
 - provide 9-1-1 service and Message Relay Service (MRS) (item 15);
 - adhere to all privacy safeguards and confidentiality of customer information requirements (items 16 and 17);
 - provide information on terms of service (items 19 and 20); and
 - abide by Commission directives on provision of billing information and billing inserts in alternative formats (item 21).

Process

4. Yak Communications (Canada) Inc. (Yak) filed comments dated 7 October 2005. Aliant Telecom Inc.,² Bell Canada, Saskatchewan Telecommunications (SaskTel), and Société en commandite Télébec (collectively, the Companies) filed joint comments dated 11 October 2005. TELUS Communications Inc. (TCI), now TELUS Communications Company (TCC),³ MCI Canada (MCI), and Xit telecom inc., on behalf of itself and 9141-9077 Quebec inc. (collectively, Xit telecom), also filed comments dated 11 October 2005.
5. The CCTA filed reply comments dated 21 October 2005.

Background

6. In Decision 97-8, the Commission established a regulatory framework for new entrants that wished to offer local exchange services in competition with the ILECs.
7. In *Regulatory framework for voice communication services using Internet Protocol*, Telecom Decision CRTC 2005-28, 12 May 2005, as amended by Telecom Decision CRTC 2005-28-1, 30 June 2005 (Decision 2005-28), the Commission determined that local VoIP services should be regulated as local exchange services. The Commission also determined that the

² On 7 July 2006, Bell Canada's regional wireline telecommunications operations in Ontario and Quebec were combined with, among other things, the wireline telecommunications operations of Aliant Telecom, Société en commandite Télébec, and NorthernTel, Limited Partnership to form Bell Aliant Regional Communications, Limited Partnership (Bell Aliant).

³ Effective 1 March 2006, TCI assigned and transferred all of its assets and liabilities, including all of its service contracts, to TCC.

regulatory framework governing local competition, as set out in Decision 97-8 and subsequent determinations, applied to local VoIP service providers, except as otherwise provided in Decision 97-8.

8. In Decision 2005-28, the Commission noted that the rights and obligations of Canadian carriers providing local exchange services were set out in Decision 97-8 and determined that it would not be appropriate to modify those rights and obligations in respect of the provision of local VoIP services. As such, the Commission determined that non-dominant Canadian carriers must fulfill the CLEC obligations and conform to the entry procedures set out in Decision 97-8 in order to provide local exchange services in Canada. The Commission also determined that all local VoIP service providers that were not operating as Canadian carriers were to register with the Commission as resellers as a condition of obtaining services from a Canadian carrier or other telecommunications service provider (TSP).

Positions of parties

CCTA

9. The CCTA noted that in Decision 2005-28, the Commission had determined that to provide local exchange services, including local VoIP services, non-dominant carriers must fulfill the CLEC obligations and conform to the CLEC entry procedures set out in Decision 97-8. The CCTA also noted that the regulatory framework in Decision 97-8 did not preclude a CLEC from relying on the facilities of a third party to provide services and meet the CLEC obligations.
10. The CCTA submitted that smaller cable companies could not economically deploy local voice services, including VoIP services, without partnering with other TSPs. The CCTA further submitted that no CLECs were currently operating in the serving territories of many small cable companies. As such, many small cable companies had to partner with resellers. The CCTA noted that although resellers were subject to many CLEC obligations, they were not subject to all CLEC obligations; as such, a small cable company that had partnered with a reseller could not fulfill every CLEC obligation through the reseller partnership.
11. The CCTA argued that, as a result, certain CLEC obligations placed an undue burden on the smaller cable companies and made it impossible for these companies to enter local markets. The CCTA submitted that with this application it sought relief for the smaller cable companies from the requirement to comply with certain CLEC obligations.
12. The CCTA submitted that the requested relief should apply to a class of CLECs it defined as Group 2 CLECs. The CCTA submitted that Group 2 CLECs included "smaller CLECs," i.e. CLECs with total telecommunication revenues of less than \$10 million per year, especially smaller cable companies, that qualified as Group 2 entities pursuant to *Telecommunications industry data collection: updating of CRTC registration lists, telecommunications fees, Canadian revenue-based contribution regime, international licences and monitoring of the Canadian telecommunications industry*, Telecom Circular CRTC 2005-4, 9 February 2005 (Circular 2005-4).⁴

⁴ In Circular 2005-4, the Commission determined that Group 2 entities consisted of "smaller entities that do not file CRTC telecommunications tariffs nor participate in certain telecommunications processes (telecommunications fees, international licence holders, etc)."

13. The CCTA noted that section 24 of the *Telecommunications Act* (the Act) provides that "[t]he offering and provision of any telecommunications service by a Canadian carrier are subject to any conditions imposed by the Commission or included in a tariff approved by the Commission." However, the CCTA also noted that section 34 of the Act provides that the Commission may refrain from exercising its powers under certain sections of the Act, including section 24, "where the Commission finds as a question of fact that to refrain would be consistent with the Canadian telecommunications policy objectives."
14. The CCTA argued that granting the requested relief would be consistent with the principle established in subsection 34(1) of the Act and would foster the objectives of Canadian telecommunications policy of enhancing and facilitating competition in telecommunications services and ensuring that regulation, where required, is effective and efficient. The CCTA submitted that this was exactly what it was seeking in this application. The relief sought, if granted, would relieve Group 2 CLECs from the requirement to comply with a limited number of the CLEC obligations that have been imposed by the Commission on CLECs pursuant to section 24 of the Act, thereby making entry by these carriers into local markets viable. The CCTA added that smaller Canadian carriers that become CLECs would continue to be required to comply with the most critical CLEC obligations and would remain subject to section 24 of the Act and all the other powers that the Commission has retained in respect of the provision of services by CLECs.
15. The CCTA submitted that if relief from these obligations were not granted, certain Group 2 CLECs, especially smaller cable companies, would not be able to offer local telephone services and those already providing local telephone services would be forced to withdraw their services.
16. The CCTA submitted that a carrier that wished to be treated as a Group 2 CLEC would file documentation establishing that it satisfied the Group 2 CLEC criteria when it applied for Group 2 CLEC status. The CCTA added that a Group 2 CLEC whose revenues had grown to exceed the minimum revenue threshold of \$10 million would be expected to comply with all CLEC obligations within six months following notification from the Commission.
17. The CCTA submitted that its request was not inconsistent with the Commission's policies, as the Commission had distinguished between larger and smaller TSPs on several occasions. The CCTA noted that the small incumbent local exchange carriers (SILECs) were subject to a different regulatory regime than the ILECs. The CCTA also noted that in *Regulation under the Telecommunications Act of cable carriers' access services*, Telecom Decision CRTC 99-8, 6 July 1999, the Commission established a framework that applied to only the four largest cable companies. The CCTA added that the Commission had distinguished between larger and smaller cable companies for the purpose of tariffing certain telecommunications services and that the contribution regime also distinguished between service providers on the basis of size. The CCTA argued that, in light of the above, there was a broad-based precedent for lessening the regulatory obligations applicable to Group 2 CLECs.

LNP

18. The CCTA noted that in Decision 97-8 the Commission required all LECs to implement LNP and that in Decision 2005-28 the Commission extended that requirement to all LECs providing

local VoIP services. The CCTA noted that resellers were not required to implement LNP and argued that, as a result, a Group 2 CLEC that had partnered with a reseller might be unable to permit new customers to port numbers from other LECs.

19. The CCTA submitted that a Group 2 CLEC should be required to release telephone numbers for porting if one of its retail customers elected to switch to another service provider, but a Group 2 CLEC should be able to decide whether it would permit customers to port numbers from other LECs. The CCTA argued that whether a Group 2 CLEC chose to port numbers from another LEC would impact only the Group 2 CLEC's operations and would not limit another carrier's ability to compete. The CCTA also argued that the Group 2 CLEC's customers would not be disadvantaged, since their numbers would be ported if they chose to transfer to another service provider.

Directory listings

20. The CCTA noted that in Decision 97-8, ILECs were required to provide a complete directory to their customers, whereas CLECs were required only to provide directory listings to other LECs at tariffed rates. The CCTA noted that resellers were under no obligation to make directory listings available. The CCTA further noted that in Decision 2005-28 the Commission determined that the existing directory listing requirements for ILECs and CLECs would apply when these carriers provided local VoIP services.
21. The CCTA submitted that Group 2 CLECs should be relieved from the obligation to provide directory listings to other LECs on the basis that the costs and resources required to compile the directory listing information were unlikely to be economically justified. The CCTA added that since Group 2 CLECs did not have large customer bases, the absence of a listing for these customers should not detract from the completeness of an ILEC's directory.
22. The CCTA submitted that if a Group 2 CLEC chose to make directory listings available to other LECs, those listings should be provided under the required tariff.

Equal access arrangements

23. The CCTA noted that in Decision 97-8, the Commission extended to CLECs the requirement to make equal access arrangements available to IXCs. The CCTA further noted that resellers were not required to provide equal access arrangements. The CCTA added that in Decision 2005-28, the Commission determined that equal access obligations applied to LECs providing VoIP services.
24. The CCTA argued that since reseller partners were not required to implement equal access arrangements, a Group 2 CLEC might not be able to offer equal access to its retail customers. The CCTA also argued that it would be problematic for a Group 2 CLEC to provision the carrier identification codes needed for equal access arrangements and that the provision of equal access required Primary Interexchange Carrier/Customer Account Record Exchange (PIC/CARE) processes that would be costly and difficult for a small cable company to implement.
25. The CCTA submitted that any potential negative impact on IXC competition that might result from relieving Group 2 CLECs of the obligation to provide equal access arrangements to IXCs would be minimal, as Group 2 CLECs had a relatively limited scope of operations.

Direct access to numbering resources

26. The CCTA noted that in Decision 97-8 the Commission permitted CLECs direct access to numbering resources and required CLECs to obtain a CO code in each ILEC exchange where they offered local service. The CCTA further noted that resellers did not have direct access to numbering resources and that in Decision 2005-28 the Commission noted that resellers could obtain telephone numbers from LECs for use by the reseller's customers.
27. The CCTA argued that Group 2 CLECs that offered VoIP through reseller partners did not require direct access to numbering resources or a full CO code. The CCTA added that Group 2 CLECs would obtain their telephone numbers through their reseller partners. The CCTA noted that this approach would help to conserve scarce numbering resources and would impact neither other carriers nor competition.

Interconnection arrangements

28. The CCTA noted that in Decision 97-8, the Commission set out the requirements for LECs to exchange traffic, which were modified in *Trunking arrangements for the interchange of traffic and the point of interconnection between local exchange carriers*, Telecom Decision CRTC 2004-46, 14 July 2004 (Decision 2004-46) and in *Follow-up to Trunking arrangements for the interchange of traffic and the point of interconnection between local exchange carriers*, Telecom Decision CRTC 2004-46, Telecom Decision CRTC 2006-35, 29 May 2006.
29. The CCTA argued that Group 2 CLECs that provided local telephone service through reseller partners would not directly connect to other LECs, but would instead use the arrangements established by their reseller partners and the resellers' underlying LECs. The CCTA added that it was neither practical nor economical for a Group 2 CLEC to connect directly to other LECs or wireless service providers (WSPs) when the reseller partner already had an interconnection arrangement with the LEC that provides the means for the exchange of all traffic, including that of the Group 2 CLEC.

Tariffs and inter-carrier agreements

30. The CCTA noted that in Decision 97-8 the Commission required CLECs to file proposed tariffs and inter-carrier agreements for services provided to other carriers.
31. The CCTA noted that Group 2 CLECs would not be directly interconnected with other carriers. The CCTA submitted that, accordingly, a Group 2 CLEC would not trigger the requirement to file tariffs or inter-carrier agreements with the Commission for approval.
32. The CCTA submitted that Group 2 CLECs would still be subject to sections 25 and 29 of the Act, and in the event that a Group 2 CLEC chose to provide services to another carrier, it would be required to file a tariff for those services.

Serving area maps

33. The CCTA submitted that in Decision 97-8 the Commission required CLECs to file serving area maps with the Commission and to make those maps available upon request at their business offices.

34. The CCTA noted that it had proposed that Group 2 CLECs be relieved from the requirement to obtain CO codes and submitted that, as such, the provision of serving area maps would be unnecessary. The CCTA submitted that if a Group 2 CLEC provided nomadic VoIP services, a serving area map would be impractical, as the potential serving area would encompass any location where a broadband Internet connection was available.
35. The CCTA noted, however, that Group 2 CLECs would be able to prepare serving area maps in most cases, should the Commission consider that there was sufficient justification to do so.

TCC

36. TCC argued that the CCTA's request to partition CLECs into different groups with asymmetric obligations was not justified. TCC submitted that to do so would unjustly benefit certain competitive providers more than others. TCC further submitted that the CCTA had provided no evidence to support the position that without the relief sought, smaller cable companies would be unable to provision local exchange services.
37. TCC submitted that in Decision 97-8 the Commission imposed on all CLECs a minimum set of obligations that it deemed critical for social, technical, or economic policy reasons. TCC argued that while cable companies that provided local exchange services were CLECs and, as such, must fulfill the CLEC obligations, cable companies could meet certain obligations through either other LECs or resellers of the underlying LEC.
38. TCC argued that where a Group 2 CLEC intended to meet its obligations through the services, functions, or facilities of another LEC or a reseller, it should simply be required to certify in a meaningful way through the CLEC authorization process that it is doing so.
39. TCC submitted that most customers expected and required directory listings and LNP porting-in and/or porting-out. TCC added that the remaining obligations to which the CCTA objected were mostly met by the underlying service providers or their resellers, which serve as interconnectors for the smaller cable operators.
40. TCC argued that the equal access obligation was unnecessary as, due to the launch of VoIP services and the packages available from access-independent VoIP providers, the pricing and marketing toll had overtaken the practicality of the requirement to provide equal access arrangements. TCC submitted that, as such, the Commission could consider eliminating the equal access obligation for all LECs. TCC further proposed that the equal access obligation be eliminated one year following a Commission determination to allow all carriers sufficient time to transition from the PIC/CARE process.

The Companies

41. The Companies submitted that to exempt certain providers from public policy obligations would create a two-tier environment for competitors and customers.
42. The Companies argued that the CCTA's contention that the cost of compiling directory information was excessive was without merit. The Companies noted that at the time of the application there were 35 SILECs and a number of CLECs in Canada, each serving much fewer

than 10,000 subscribers, that currently provided directory listing information for inclusion in directories or directory databases. Further, the Companies submitted that it was reasonable to assume that the smaller cable companies already maintained a list of names, addresses, and telephone numbers of the telephony customers they served. The Companies submitted that if the current basic listing interchange file (BLIF) rate was not compensatory, the smaller cable companies could, under the rules established in Decision 97-8, submit an application requesting a rate change.

43. The Companies noted that the CCTA argued that equal access required PIC/CARE processes that could be costly and difficult for small companies to support. However, the Companies submitted that there were some 35 SILECs and some CLECs operating in Canada, each serving much fewer than 10,000 subscribers, that had already implemented PIC/CARE processes. As such, the Companies argued that the CCTA's contention that the cost of supporting the PIC/CARE processes was excessive was without merit.
44. The Companies suggested that the CCTA's application provided an opportunity to re-examine certain regulatory obligations that might not be needed. The Companies suggested that should the Commission consider that any obligations identified by the CCTA were no longer required as a matter of public policy, the Commission should initiate a proceeding to examine whether all LECs should be relieved of the requirements to fulfill those obligations. Specifically, the Companies proposed that the Commission initiate a proceeding to examine whether, and if so to what extent, an equal access obligation continued to be required.
45. The Companies submitted that the equal access obligation should be phased out for all service providers, beginning with access-independent VoIP service providers. In this regard, the Companies submitted that there were currently few facilities-based providers offering only long distance services. The Companies also submitted that local and long distance services were being offered for a single price by both wireless and VoIP service providers and that VoIP service providers offered long distance rates that constituted a strong disincentive for customers to move to other long distance service providers. The Companies submitted that, in those circumstances, customer choice should dictate whether a service provider would offer equal access, and as such, the Commission should remove the equal access requirement for all access-independent VoIP service providers.
46. With respect to LNP, the Companies did not oppose the CCTA's proposal that outbound LNP would remain an obligation while inbound LNP became a choice. However, the Companies submitted that a LEC should not be able to choose among customers as to which it would offer inbound porting.
47. With respect to direct access to numbering resources, the Companies submitted that the Group 2 CLECs should continue to be required to obtain an NXX or CO code for each ILEC exchange in which they provided service. The Companies submitted that without this requirement, the correct routing, rating, and billing of calls to end-user locations could not be maintained.
48. With respect to interconnection arrangements, the Companies argued that if the Commission were to grant the relief requested by the CCTA, all carriers with less than \$10 million in revenue would be excluded from interconnection requirements, whether or not the underlying service was provided by a reseller.

49. The Companies argued that a small cable company or LEC might fulfill its interconnection requirements indirectly through another LEC, if that other LEC were offering its services to a reseller that, in turn, was offering services to the small cable company or LEC. The Companies noted that in Decision 2005-28, the Commission stated that "a Canadian carrier may resell certain services and functionalities of other carriers in the provision of their local VoIP services."
50. The Companies also submitted that if the current interconnection rates were not compensatory, the small cable companies were free, under the rules established in Decision 97-8, to submit an application requesting a change in applicable rates.
51. The Companies submitted that, in light of the above, the existing rules provided the CCTA with the relief it had requested. However, the Companies submitted that while the interconnection obligation should be maintained for the Group 2 CLECs, the filing of tariffs and agreements could be subject to a different framework. The Companies submitted that in its 15 August 2005 submission to the Telecommunications Policy Review Panel, Bell Canada proposed that the Commission adopt a "negotiate first" approach to interconnection. The Companies submitted that such an approach would allow all carriers, including Group 2 CLECs, to negotiate interconnection arrangements that would better suit their needs. Further, the Companies submitted that under a "negotiate first" approach the Commission would only become involved if the carriers failed to reach an agreement, thus eliminating the need to file tariffs for interconnection.
52. In addition, the Companies noted that on 6 April 2005, the Commission initiated a process to determine whether certain section 29 agreements should be forborne, including those related to interconnection arrangements between LECs. The Companies submitted that if the Commission determines that certain section 29 agreements are forborne, that ruling would address many of the CCTA's concerns.
53. With respect to serving area maps, the Companies submitted that the Commission should maintain the requirement that serving area maps be made available on request. The Companies noted the CCTA's submission that Group 2 CLECs were prepared to make serving area maps available in most circumstances, but they also noted that the CCTA did not describe under which circumstances the Group 2 CLECs would not make the maps available.

Xit telecom

54. Xit telecom addressed a number of topics related to the barriers to entry that, it argued, foreclosed its entry into the local exchange market. Xit telecom discussed five remedies that it had submitted as part of the proceeding initiated by *Forbearance from regulation of local exchange services*, Telecom Public Notice CRTC 2005-2, 28 April 2005 (Public Notice 2005-2) to contrast with the relief requested by the CCTA. Xit telecom added that the CCTA had provided no empirical economic evidence of the costs to comply with the CLEC obligations for which the CCTA requested relief. Xit telecom added that without detailed cost comparisons of avoidable costs, the relief sought by the CCTA would perpetuate the existing barriers to entry at the expense of greater competition throughout Canada.

55. Xit telecom submitted that the CCTA's application was not the appropriate forum either to review and vary Decision 2005-28 or for the ILECs to argue that access-independent VoIP services should not be subjected to the equal access obligation.

Yak

56. Yak noted that the CCTA had framed its application as a request for forbearance under section 34 of the Act. Yak submitted that it had expected the CCTA's application to address the criteria for a review and vary of Decision 2005-28, since the CCTA raised similar issues in that Decision to those raised in this application.
57. Yak submitted that while it was sympathetic to the CCTA's request to reduce regulatory burden, it did not view the regulatory burden on Group 2 CLECs as burdensome.
58. Yak submitted that most of the obligations from which the CCTA had requested relief could be satisfied by the underlying LEC. Yak submitted further that for those obligations that could not be satisfied by the underlying LEC, such as directory listings and equal access, a reseller should demand those services and let the underlying LEC offer them at a tariffed rate.
59. Yak also submitted that the requirements to file CLEC tariffs and provide serving area maps were not onerous, as the Commission had approved a tariff template for CLECs to use, and noted that the CCTA had agreed to provide serving area maps in some circumstances.
60. Yak further submitted that with a monthly telephone service charge of \$40, a Group 2 CLEC could have as many as 20,800 customers and still qualify for the concessions that the CCTA had requested. Yak noted that a carrier with 20,800 customers would be substantially larger than most of the SILECs operating in Canada at the time of the application. Yak noted that other small carriers in Canada had fulfilled the CLEC regulatory requirements without the relief proposed by the CCTA.
61. Yak expressed its concern that the CCTA's application was a mechanism to avoid equal access responsibilities since, as an independent long distance supplier, Yak relied on equal access as the foundation of its business. Yak noted that the Commission ruled unequivocally in Decision 2005-28 that equal access was in the public interest and ILECs and CLECs should continue to respect the equal access rules. However, Yak argued that Bell Canada had sought to sidestep these requirements in its new VoIP offering and that, with this application, the CCTA sought to do likewise. Yak urged the Commission not to allow the CCTA or any other operator to undermine equal access.

MCI

62. MCI submitted that the CCTA had identified a problem with the Decision 97-8 framework; however, the CCTA's recommended approach would only increase the already unacceptable level of discrimination faced by resellers. MCI argued that the CCTA had essentially requested that the Commission allow Group 2 CLECs to operate as local voice resellers, while continuing to receive all the benefits of CLEC status. MCI submitted that it appreciated the predicament of

the Group 2 CLECs that, due to their reliance on resellers, were unable to satisfy all the CLEC obligations; however, MCI suggested that the solution was not to create a new class of CLECs, but to allow resellers to obtain CLEC status so that the resellers could provide the full range of CLEC services that the smaller cable companies required.

63. MCI submitted that while there might have been historical reasons for denying resellers the right to obtain CLEC status, those reasons no longer existed. In this regard, MCI noted that every consumer safeguard imposed on CLECs in Decision 97-8 had been extended to resellers. MCI also submitted that the barrier to competitor entry that denied resellers the right to obtain CLEC status was inconsistent with Canada's commitments under the General Agreement on Trade in Services (GATS). According to MCI, the regulatory regime governing the provision of local voice telephony services in Canada violated Canada's obligations under several provisions of the GATS.

The CCTA's reply

64. In response to Yak and Xit telecom, the CCTA submitted that the Commission was clear and unequivocal in its determination in Decision 2005-28 that non-dominant Canadian carriers must fulfill the CLEC obligations and conform to the entry procedures set out in Decision 97-8. Further, the CCTA submitted that its application requested relief from certain aspects of Decision 97-8, not from the obligation set out in Decision 2005-28.
65. The CCTA submitted that it did not intend to obtain permission for small cable companies to avoid social obligations or to receive CLEC benefits without assuming the corresponding CLEC obligations. The CCTA submitted that, instead, it intended to give small Canadian carriers sufficient flexibility to overcome barriers to entry when competing in local phone service. The CCTA submitted that the potential revenue available to Group 2 CLECs within their addressable market was insufficient to warrant assuming full CLEC interconnection obligations and other costs associated with market entry.
66. The CCTA submitted that no party had challenged its contention that the relief sought would be consistent with the Canadian telecommunications objectives. The CCTA also submitted that the relief sought would make it possible for Group 2 CLECs to enter, or remain in, local markets throughout Canada as facilities-based competitors operating under direct Commission jurisdiction. The CCTA added that through Group 2 CLEC entry, the benefits of sustainable facilities-based competition would reach Canadians for whom geographic location and lower community density would normally represent insurmountable economic barriers.
67. The CCTA submitted that the cable companies currently offering VoIP services together served fewer than 30,000 cable subscribers and that few, if any, would ever reach the proposed \$10 million telecommunications revenues threshold. The CCTA added that even with 30 percent penetration, the total of voice customers would number in the hundreds, not thousands.
68. The CCTA noted that many ILECs, notably SaskTel, had argued in the past that facilities-based competition would never reach small communities. The CCTA agreed that this might be the case, so long as CLEC entry costs remained out of reach for facilities-based carriers such as small cable companies.

69. With respect to interconnection, the CCTA noted that the Companies, TCC, and Yak had submitted that compliance with the CLEC obligations could be achieved through indirect reliance on a distant CLEC or ILEC. The CCTA submitted that while this relationship could form the basis for certifying to the Commission that the Group 2 CLEC had met the CLEC obligations expected of it, Group 2 CLECs would still not be in a position to file interconnection tariffs or enter into interconnection agreements.
70. The CCTA submitted that it was not necessary, as TCC and the Companies had suggested, that the policy issue of equal access be revisited in its entirety by the Commission. The CCTA argued that for the Group 2 CLECs the issue of equal access was one of practicality, not policy.
71. With respect to directory listings, the CCTA submitted that the relief it had requested was from the obligation to make directory listings available via tariff simply in contemplation that a LEC might be interested in such listings. The CCTA added that Group 2 CLECs should undertake to secure directory listings for customers that sought to have their listings in an ILEC directory and submitted that only in the event that the Group 2 CLEC developed a BLIF or BLIF-like service should the obligation to file a tariff be required.
72. The CCTA submitted that, despite the Companies' concerns, there was no evidence to suggest that Group 2 CLECs not obtaining a CO code for each ILEC exchange had jeopardized the fulfillment of the objectives of the original Commission determination. The CCTA submitted that, given that a reseller today cannot obtain CO codes, the Companies' fear that the correct routing, rating, and billing of calls to end-users would not be met had not materialized under the present reseller framework. The CCTA also noted that, with a few exceptions, long distance services were no longer priced on a distance-sensitive basis; therefore, the use of a CO code from an adjacent or nearby exchange would have little impact on the rating of such calls.
73. The CCTA submitted that Yak's and MCI's submissions that Group 2 CLECs sought CLEC benefits without the corresponding obligations and wished to be regulated as resellers were not true. The CCTA submitted that the right to enter into bill-and-keep and other interconnection arrangements and the right to direct access to numbering resources actually represented economic barriers to entry for a small carrier. The CCTA submitted that it sought to address the reality that while operating on a basis similar to VoIP resellers, small cable carriers are regulated as CLECs pursuant to Decision 2005-28.
74. The CCTA submitted that it did not take a position on MCI's proposal that resellers should obtain CLEC status. It submitted, however, that such a proposal would not offer a timely solution for small carriers currently entering the local voice market. The CCTA submitted that the purpose of its application was to address the circumstances faced by small carriers and to do so within the existing local competition framework.
75. Finally, the CCTA noted that the relief it sought was consistent with the Commission's practice of recognizing that within the local competition framework, there was scope to take into account economic barriers to entry. The CCTA submitted, for instance, that the Commission had simplified and modified the framework for co-location, developed the concept of Category I competitor services, and established local interconnection regions to simplify interconnection and lower costs. The CCTA submitted that these modifications had permitted CLECs to meet their obligations in an economical manner and, as such, have fostered increased competition.

Commission's analysis and determinations

76. The Commission notes that Yak submitted that the CCTA ought to have sought a review and vary of Decision 2005-28 and that Xit telecom submitted that the CCTA's application was not the appropriate forum to review and vary Decision 2005-28. The Commission notes that in Decision 2005-28, the CCTA argued that cable carriers should be treated as resellers when providing VoIP services, whereas in this proceeding, the CCTA has not contested the Commission's determination in that regard. This proceeding concerns the granting of relief from certain CLEC obligations for a specific class of companies. In this regard, the CCTA raised particular circumstances and issues, such as the lack of resources, to explain why certain small CLECs could not fulfill specific CLEC obligations. The Commission considers that this does not raise a question as to the original correctness of Decision 2005-28. The request for relief from certain CLEC obligations for a specific class of companies, and the particular circumstances and issues raised in this proceeding, were neither raised nor addressed in the proceeding leading to Decision 2005-28 and were therefore not relied upon in, or central to, that Decision. Accordingly, the Commission determines that the CCTA's application is not an application to review and vary Decision 2005-28.
77. The Commission considers that the CCTA has essentially requested that the conditions of service found to be appropriate in Decision 97-8 with respect to CLECs be modified in the case of Group 2 CLECs providing local VoIP service. The Commission notes that the relief requested is based upon conditions of hardship, economy, and efficiency with respect to a very small segment of non-dominant Canadian carriers. In addition, should those small carriers grow beyond a predetermined threshold, the CLEC obligations from which relief may have been allowed would be reimposed.

Issues raised by Xit telecom and MCI

78. In its comments, Xit telecom focused generally on the barriers to entry that precluded it from gaining entry into the local exchange market rather than the issues raised by the CCTA and its request for relief from certain CLEC obligations. The Commission notes that the comments from Xit telecom in the context of this application were similar in nature to its comments in the proceeding initiated by Public Notice 2005-2, which were dealt with in *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006. The Commission considers that Xit telecom's comments are outside the scope of this proceeding.
79. In the Commission's view, MCI's submission arguing in favour of allowing resellers to obtain CLEC status is also beyond the scope of this proceeding. The Commission considers that the issue in this proceeding is a narrow one, i.e. whether Group 2 CLECs that offer local VoIP services through a reseller should be relieved of certain CLEC obligations to which they would otherwise be subject, based on the existing regulatory framework.

Classification of CLECs

80. The Commission notes that the CCTA has requested relief from certain CLEC obligations for certain non-dominant carriers that offer local VoIP services through a reseller, which the CCTA

has identified as Group 2 CLECs. The Commission notes that the CCTA based its definition of Group 2 CLECs on the Commission's definitions of Group 1 and Group 2 entities in Circular 2005-4. The Commission notes in particular that the CCTA's definition of Group 2 CLECs relies heavily on the Commission's assertion that Group 1 entities comprise, among other things, telecommunications entities that "are in a related group that has total telecommunications revenues in excess of \$10 million." The Commission notes that the CCTA proposed that Group 2 CLECs would include entities that have total telecommunications revenues of less than \$10 million per year.

81. The Commission considers, however, that a revenue threshold is an inappropriate delineator for a separate class of CLECs. In this regard, the Commission notes the calculations submitted by Yak that show that a Group 2 CLEC with an average monthly telephone charge of \$40 could have as many as 20,800 customers before triggering the \$10 million revenue threshold. The Commission further notes that a Group 2 CLEC with 20,800 customers would be larger than all but three of the SILECs and larger than many CLECs currently operating in Canada, all of which have met all the existing LEC/CLEC obligations. In addition, the Commission considers that a company with telecommunications revenues approaching \$10 million should be able to allocate sufficient resources to enable it to meet the CLEC obligations.
82. The Commission considers that it would be more appropriate to classify CLECs based on a threshold number of subscribers for the purpose of considering the CCTA's requests in this proceeding. In this regard, the Commission considers that a relatively small number of subscribers will be the most appropriate indicator of a CLEC's ability to generate sufficient telecommunications revenues or allocate sufficient resources to implement all the CLEC obligations if it chose to offer local VoIP services in its territory through a reseller.
83. Accordingly, the Commission considers it appropriate that the telecommunications subscriber threshold for the CCTA's Group 2 CLECs that offer local VoIP services through a reseller be set at 10,000 subscribers. The Commission considers that this level of subscribers strikes an appropriate balance between the 20,800 telecommunications subscribers required to trigger the \$10 million threshold proposed by the CCTA, and allowing the CCTA's Group 2 CLECs to reach a sufficient customer level to respond to those customer requests for new services in an efficient and effective manner without an undue regulatory burden.
84. Accordingly, the Commission determines that any relief granted in this Decision with respect to the requirement to fulfill certain CLEC obligations will apply to the carriers that are the subject of this application that meet all the following criteria:
 - They are non-dominant Canadian carriers;
 - They offer local VoIP services through a reseller; and
 - They have fewer than 10,000 local exchange service telecommunications subscribers.

For the purposes of this Decision, the Commission will hereafter refer to these carriers as "small CLECs."

85. The Commission notes that the current reporting process for annual monitoring purposes requires TSPs to submit to the Commission their total number of local and access lines. The Commission considers that through this process, it will become aware, on a timely basis, should a small CLEC exceed the 10,000 customer threshold. Consistent with the thrust of the CCTA's application, the Commission determines that once a small CLEC exceeds the customer threshold or ceases to offer local VoIP services through a reseller and offers local VoIP services through its own resources, it must implement all the CLEC obligations, from which it may have obtained relief, within six months.

CLEC obligations

86. The Commission notes that in Decision 2005-28 it determined that local VoIP services should be regulated as local exchange services and that, in order to provide such service, non-dominant Canadian carriers must fulfill the CLEC requirements and conform to the entry procedures set out in Decision 97-8.

Consumer obligations

87. The Commission notes that the CCTA has submitted that small CLECs will fulfill the CLEC obligations identified in items 15, 16, 17, 19, 20, and 21. Accordingly, the Commission is of the view that no further action is required in regard to these CLEC obligations.

Directory listings

88. The Commission notes that the CCTA has requested relief for small CLECs from the obligation, identified in item 11, to provide directory listings to other LECs on the basis that the costs and resources required to compile the directory listing information were unlikely to be economically justified. The Commission notes, however, that the CCTA did not provide any financial information to support this claim.
89. The Commission notes that this obligation does not apply to resellers, which means that the small CLEC is unable to use this service to fulfill this CLEC obligation. The Commission also notes the Companies' submission that a small CLEC offering local telephone service would likely maintain a record of its customers' names, telephone numbers, and service addresses or billing addresses. The Commission agrees with the Companies on this point and considers that since listings of small CLEC telecommunications customers are likely already available, a small CLEC need only develop an output for its listings in BLIF format.
90. The Commission notes TCC's submission that most customers expect and require some form of directory listings. The Commission agrees with TCC on this point and notes the CCTA's submission that small CLECs were not averse to providing directory listings to other LECs, but that they were unwilling to be required to do so pursuant to a tariff.
91. The Commission notes, however, that a tariff template already exists for directory listings and that, should the rates within that tariff not allow for the full recovery of a small CLEC's costs, a small CLEC is free to file with the Commission an application for new rates.

92. In light of the above, the Commission considers that the obligation to file a tariff for directory listings and to provide directory listings to other LECs does not place an undue burden on small CLECs and, accordingly, determines that small CLECs must continue to comply with this CLEC obligation.

CLEC interconnection obligations

93. The Commission notes that the CCTA has requested relief for small CLECs from the CLEC obligations identified in items 1 to 7, 9, 12 to 14, and 18, which relate generally to establishing an interconnection framework between a CLEC, other LECs, and WSPs and which do not apply to resellers. The Commission notes that the CCTA has requested full relief from all these items, with the exception of item 14, from which it has requested only partial relief.

Direct access to numbering resources

94. The Commission notes that the CCTA has requested relief for small CLECs from the CLEC obligation, identified in item 1, to obtain one CO code for each ILEC exchange in which they provide service. The Commission notes that the Companies opposed the granting of any relief from this obligation on the basis that a specific NXX code per exchange was necessary for the rating, routing, and billing of long distance calls.
95. The Commission notes that some parties challenged the requirement of one CO code per ILEC exchange in the proceeding leading to Decision 2004-46. In Decision 2004-46, the Commission rejected any changes to the current numbering framework with respect to ILEC exchanges and determined that the current framework for the assignment of numbering resources should be maintained.
96. The Commission notes that the CCTA suggested that relief from the obligation identified in item 1 would help conserve scarce numbering resources. The Commission notes that in its fourth quarter 2005 newsletter, the North American Numbering Plan Administration reported that the North American Numbering Plan exhaust report indicated exhaust now beyond 2035. Accordingly, the Commission considers that numbering plan area exhaust may not be as significant a concern now as it was in 2004.
97. In light of the above, the Commission determines that small CLECs must continue to comply with the CLEC obligation to obtain a CO code for each ILEC exchange in which they operate.

Interconnection arrangements

98. The Commission notes that the CCTA has requested relief for small CLECs from CLEC obligations related to interconnection requirements identified in items 2 to 7, 9, 12, and 13. In paragraph 343 of Decision 2005-28, the Commission recognized that a CLEC may fulfill its interconnection requirements indirectly through another LEC:

With respect to the CCTA's argument that it would be consistent with fostering increased competition to permit cable carriers to operate using a resale partnership model, the Commission notes that the regulatory framework set out in Decision 97-8 does not preclude CLECs from relying

on the facilities of third parties to provide services and to meet their obligations pursuant to that Decision. For example, in *Transiting and points of interconnection*, Telecom Order CRTC 98-486, 19 May 1998, the Commission accepted the argument that the facilities of a third party can be considered as being the CLEC's designated facility for the purposes of meeting certain obligations in Decision 97-8.

99. The Commission notes that recently, Mountain Cablevision Limited was granted CLEC status in order to offer local VoIP service and that it met some of its CLEC obligations, mainly the interconnection obligations, by entering into an arrangement with its underlying carrier. The Commission considers that the CLEC obligations facing small CLECs can be met through negotiated arrangements with the underlying LEC even if the underlying LEC is not the direct service provider to the small CLEC.
100. With respect to the CCTA's concern that small CLECs would still not be in a position to file interconnection tariffs or enter into interconnection agreements, the Commission considers that those obligations can also be met by the underlying LEC, based on the latter's existing tariffs and agreements. The Commission considers that while those tariffs and agreements may require some modifications to reflect the proxy arrangement between the underlying LEC and the small CLEC, and side agreements may be required between the small CLEC and the underlying LEC, those modifications and arrangements could be negotiated in a timely fashion and would be minimal.
101. Accordingly, the Commission determines that small CLECs must continue to comply with the CLEC interconnection obligations identified in items 2 to 7, 9, 12, and 13. However, the Commission determines that they may choose to comply with the above obligations through the underlying LEC providing services to the small CLEC's resale partner.

Equal access arrangements

102. The Commission notes that the CCTA has requested relief for small CLECs from the equal access obligation identified in item 8. The Commission established the equal access obligation and applicable framework in *Competition in the provision of public long distance voice telephone services and related resale and sharing issues*, Telecom Decision CRTC 92-12, 12 June 1992, as amended by Erratum 92-12-1 dated 28 August 1992.
103. In Decision 2005-28, the Commission determined that the existing equal access obligation applies to all LECs providing VoIP services. The Commission based its determination on the principle of technological neutrality and the concern that a LEC could confer an undue or unreasonable preference with respect to access to its network if the equal access obligation were waived.
104. The Commission notes that local VoIP service offerings, as currently marketed, do not generally have a discrete long distance component. The Commission further notes that local VoIP services are not generally carried over the public switched telephone network (PSTN) until such time as the call is to be terminated to a traditional landline customer.

105. The Commission notes that small CLECs, which are the subject of this application, are offering local VoIP service through VoIP reseller partners, which are not obligated to make equal access available to their customers. The Commission notes that the equal access obligation is imposed on the originating carrier of the call and requires an examination of the dialled digits, either at the PSTN level or at the first softswitch of the VoIP provider, to determine whether the call is long distance or local. Accordingly, in the context of this application, the first opportunity to examine the dialled digits is beyond the reseller, at the underlying carrier level. The Commission notes that, as such, a small CLEC providing local VoIP service through a reseller would not be able to determine whether a given call is long distance or local.
106. The Commission considers that as small CLECs have limited resources, have limited potential for any significant customer base, offer VoIP service through a reseller partner, and have no opportunity to recover any costs associated with implementing equal access, it is unlikely that a cost-effective solution to provisioning equal access can be developed for these carriers at this time. In light of the above, the Commission considers that it would be extremely difficult, if not impossible, for small CLECs to economically or efficiently provision equal access.
107. Accordingly, the Commission **approves** the CCTA's request for relief for small CLECs from the obligation to meet, and file tariffs for, the equal access obligation at this time.
108. The Commission notes the Companies' suggestion that the Commission should institute a proceeding to examine whether, and if so to what extent, an equal access obligation is still required. The Commission further notes TCC's suggestion that the equal access obligation should be eliminated for all LECs one year after the Commission's determination on this application, as well as the Companies' suggestion that the equal access obligation be phased out, beginning with access independent VoIP service providers.
109. The Commission notes that the issue of equal access and local VoIP service was considered in *Reconsideration of Regulatory framework for voice communication services using Internet Protocol*, Telecom Decision CRTC 2006-53, 1 September 2006 (Decision 2006-53). In Decision 2006-53, the Commission determined that LECs providing local VoIP services must provide equal access.

LNP

110. The Commission notes that the CCTA requested that the small CLECs receive partial relief from the requirement to provide LNP, identified in item 4. The CCTA submitted that small CLECs were prepared to participate in the number porting process, but only in the outbound direction.
111. The Commission notes that in *Revised regulatory framework for the small incumbent local exchange carriers*, Telecom Decision CRTC 2006-14, 29 March 2006 (Decision 2006-14), it determined that the SILECs should be required to participate in the LNP process, specifically outbound porting, but did not require the SILECs to offer inbound porting.
112. The Commission considers that the circumstances of size and resource availability particular to the SILECs and small CLECs are similar in nature and that the LNP framework established in Decision 2006-14 for the SILECs is also appropriate for small CLECs.

113. Accordingly, the Commission determines that small CLECs must continue to comply with the CLEC obligation to implement LNP in the outbound direction, but can choose whether to offer inbound LNP. The Commission also determines that if a small CLEC chooses to offer inbound LNP, it must make the service available to all potential customers, without discrimination.

Serving area maps

114. The Commission notes that the CCTA requested relief for small CLECs from the obligation to provide serving area maps upon request, identified in item 18. However, the Commission also notes that notwithstanding the requested relief, the CCTA submitted that small CLECs could provision such maps should the Commission consider that there was sufficient justification to do so.
115. The Commission notes that in this Decision, it is permitting an underlying LEC or third party to fulfill certain interconnection obligations on behalf of a small CLEC. As a result, the Commission considers that it is very important that other LECs have a clear understanding, for interconnection purposes, of the serving area of the small CLEC, as gained through the provision of appropriate serving area maps.
116. Accordingly, the Commission determines that small CLECs must make serving area maps available upon request.

Secretary General

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COMPETITIVE LOCAL EXCHANGE CARRIER (CLEC) OBLIGATIONS

CLEC OBLIGATIONS

1. Obtain at least one Central Office code (NXX) for each Incumbent Local Exchange Carrier's (ILEC) exchange in which it provides services. (para 23)
2. Share equally the costs of interconnection trunks (required only within a given ILEC's exchange) and Common Channel Signalling 7 (CCS7) links. (para 27 and 28)
3. File interconnection agreement to implement no. 2, above. (para 27)
4. Designate one switch or establish a point of interconnection (POI) as its gateway for the purposes of interconnecting to other local exchange carriers (LECs) operating in that LIR, as amended by Telecom Decision CRTC 2004-46.
5. Provide a CCS7 POI in each Numbering Plan Area (NPA) in which it provides service. (para 40)
6. Exchange minimum set of CCS7 message types. (para 41)
7. Provide advanced notification of changes to network-to-network interfaces and be prepared to conduct technical tests of the proposed changes with all of the carriers to which it is interconnected. (para 45)

ENTRY OBLIGATIONS

8. File proposed tariffs for interexchange equal access and justify any departure from the terms and conditions contained in ILECs' tariffs. (para 190)
9. File proposed tariffs providing for Wireless Service Providers (WSP) interconnection that are equivalent to the terms and conditions contained in the ILECs' tariffs, justifying any departure therefrom. (para 192)
10. Ensure that the end-users it serves are able to have direct access, under reasonable terms and conditions, to services provided by any other LEC serving in that area. (para 206)
11. File intercarrier tariffs for the provision of subscriber listings to LECs that contain rates capped at the rates approved for ILECs. (para 227)
12. File tariffs for services provided to other LECs and intercarrier agreements. (para 279)

13.	Include provisions for reciprocal technical interconnection in tariffs and agreements, as appropriate. (para 282)
14.	Implement local number portability. (para 282)
15.	Provide 9-1-1 service and Message Relay Service (MRS). (para 286)
16.	Required to satisfy all existing and future regulatory requirements designed to protect customer privacy. These include (para 288): Delivery of the privacy indicator when invoked by an end customer; Provision of automated universal per-call blocking of calling line identification; Provision of per line call display blocking to qualified end customers; Disallowance of Call Return to a blocked number; Enforcement of the Commission's restrictions on Automatic Dialing-Announcing Devices, Automatic Dialing Devices, and unsolicited facsimiles applicable in the ILEC territory where they operate; and Provision of universal Call Trace.
17.	Required to abide by Commission rules regarding confidentiality of customer information established in <i>Review of the General Regulations of the Federally Regulated Terrestrial Telecommunications Common Carriers</i> , Telecom Decision CRTC 86-7, 26 March 1986, as amended by Telecom Order CRTC 86-593, 22 September 1986 and as modified from time to time. (para 289)
18.	Make serving area maps available upon request at its business offices. (para 291)
19.	Provide the following information to consumers, upon request (para 292): Local calling area boundaries; Details of all service options, with applicable prices; Details of all potentially applicable service charges; Policy on access to enhanced service providers; Available special needs services; and Information respecting privacy, including the company's responsibilities with regard to protecting the confidentiality of customer records.
20.	Provide the following information to customers, prior to contracting for service (para 293): Billing frequency and payment policy; Disconnection policy; Security deposit policy; Policy on directories; The name and address of the company providing service to the customer; A toll-free telephone number from which the customer can obtain further information or lodge a complaint; Billing date; Due date for payment; Interest rate applicable to late payments; 9-1-1 service and MRS information, including customer charges, if any; Information on company obligations with regard to customer safety and privacy protection.
21.	Required to abide by Commission directives on provision of billing information and billing inserts in alternative formats as set out in Telecom Order CRTC 98-626.

ENTRY PROCEDURES	
22.	Attest in writing that it understands and will conform to the obligations set out in Decision 97-8 and provide a map of its proposed serving area to the Commission. (para 295(1))
23.	Serve the documentation filed with the Commission pursuant to paragraph 295(1) on all other Canadian carriers providing service in exchanges where the CLEC is proposing to provide service, and all other persons who have proposed to provide service in compliance with these entry procedures. (para 295(2))
24.	File its proposed interconnection agreements and tariffs for Commission approval. (para 295(3))
25.	Provide the Commission with all of the customer information identified in paragraphs 291, 292, 293 and 295 of Decision 97-8. (para 295(4))
	Ongoing compliance with the Canadian ownership and control regulations set out in section 16 of the Telecommunications Act and associated regulations.
32.	Notify the Commission once the requirements imposed on CLECs in Decision 97-8 have been satisfied. The notification should include a description on how the CLEC obligations have been satisfied along with a reference to the relevant Commission determinations. Serve a copy of the notification on other local exchange carriers, on the Central Funds Administrator and on the three consortia.