



Telecom Decision CRTC 2007-51

Ottawa, 11 July 2007

Action plan for the review of Commission regulatory measures in light of Order in Council P.C. 2006-1534

Reference: 8663-C12-200706575

Process

1. In *Application of criteria contained in Order in Council P.C. 2006-1534* – Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives, Telecom Public Notice CRTC 2007-6, 27 April 2007 (Public Notice 2007-6), the Commission announced its intention to examine its existing regulatory measures in light of *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534 (the Policy Direction), which came into force on 14 December 2006.
2. In Public Notice 2007-6, the Commission indicated that it wished to review its regulatory measures in an efficient and effective manner, dealing first with the most important issues in a timely fashion. The Commission invited parties to comment on what regulatory measures should be reviewed, what priority should be placed on the review of each measure, and an estimated reasonable time frame for the Commission to complete its review.
3. The Commission received a joint submission from Bell Aliant Regional Communications, Limited Partnership, Bell Canada, Saskatchewan Telecommunications, and Société en commandite Télébec¹ (collectively, the Companies); and submissions from the Canadian Cable Systems Alliance Inc. (CCSA); Quebecor Media Inc. (QMI); Rogers Communications Inc. (RCI); Cybersurf Corp. and its subsidiaries (collectively, Cybersurf); l'Union des consommateurs (l'Union); MTS Allstream Inc. (MTS Allstream); the Quebec Coalition of Internet Service Providers (QCISP); and TELUS Communications Company (TCC).

Positions of parties

4. The Companies submitted that priority must be assigned to those measures that appear to result in undue interference with market forces, that impose costs or market distortions, and that are disproportionate to their objectives and goals. In the Companies' view, the greater the apparent interference, costs, and disproportionality, the higher the priority that regulatory measure should be given for review.
5. The Companies proposed the following three categories for setting priorities based on an assessment of the scope, breadth, cost or asymmetry of the measure, and the intensity of the resulting distorting effects associated with the measure:

¹ Now known as Télébec, Limited Partnership.

- Category A – Highest priority (to be completed by 31 December 2007);
 - Category B – Moderate priority (to be completed no later than the end of the second quarter 2008); and
 - Category C – Lowest priority (to be completed no later than year-end 2008).
6. The Companies also submitted that there were a number of measures that could not be reviewed at this time because there were other matters currently pending that, once decided, would likely affect the Commission's consideration of the measures in light of the Policy Direction. Such measures included social obligations, Phase II costing measures, and measures concerning incumbent local exchange carrier obligations with respect to competitor services. The Companies attached a prioritized list of regulatory measures for the Commission's review.
 7. TCC submitted that the Policy Direction was intended to reverse the systemic inclination to regulate. TCC further submitted that the Policy Direction required the Commission to take a more market-based approach to the *Telecommunications Act* (the Act). TCC submitted that
 - the market should be the default instrument for determining who provides services, at what rates, and with what functionality;
 - the market should work out how, and even if, the services in question would be provided; and
 - the Commission must question all of its regulatory practices to ensure that the requirements were proportionate, useful, symmetrically applied, and necessary in light of the considerable human and dollar resources that were expended by those subject to the Commission's requirements.
 8. TCC attached a prioritized list of regulatory measures for the Commission's review in which it proposed that its Priority 1 measures be reviewed within six months and its Priority 2 measures within nine months.
 9. RCI submitted a list of regulatory measures for review, identifying the clause of the Policy Direction relevant to each measure and its estimated time frame for the Commission to complete the review of each measure. RCI submitted that a number of the measures could be dealt with promptly, as they were administrative in nature, while others would involve a major change to current procedure and would therefore involve a longer time frame. RCI's recommended time frames ranged from 30 days to one year, depending on its interpretation of the complexity of the regulatory measure in question.
 10. MTS Allstream submitted that with the exception of the wholesale access regime, which is under active review, the Policy Direction did not require the Commission to undertake a review of all of its existing regulatory measures. MTS Allstream indicated that the Commission's priority should be to establish clear, unambiguous, and fair evidentiary requirements for the implementation of any new, streamlined regulatory measures.

11. Cybersurf, the QCISP, and QMI each submitted a list of regulatory measures, the reasons that each measure should be reviewed, and a suggested time frame for the Commission to complete its review of each measure.
12. The CCSA submitted that regulatory obligations were a major barrier that CCSA member companies faced when considering whether to enter the local telephony market. The CCSA therefore submitted that the competitive local exchange carrier obligations should be reviewed and provided its estimated time frame for the Commission to complete this review.
13. L'Union submitted that the Policy Direction had not changed the fact that all of the objectives of the Act must be considered when Canadian telecommunications policy is set, including the objectives set out in paragraphs 7(a), 7(b), 7(c), 7(f), and 7(h) of the Act.
14. L'Union also submitted that when the Commission increases its reliance on market forces, it must still ensure a vigorous and sustainable competitive market that continues to protect the interests of both urban and rural consumers.

Commission's action plan

15. The Commission notes that in this proceeding it has undertaken a priority-setting exercise for the purposes of determining the order in which its regulatory measures will be reviewed in light of the Policy Direction. In determining this order, the Commission has considered several factors, including the priority assigned by each party, the degree of market intervention, the breadth of application, and the potential for streamlining associated with each regulatory measure.
16. The Commission notes that most parties have submitted prioritized lists of regulatory measures for review, and that in many cases several parties agree that a high priority should be assigned to the review of certain regulatory measures. The Commission has carefully considered the parties' priorities and has taken them into account when setting out its action plan to review the existing regulatory measures.
17. The Policy Direction indicates that, when relying on regulation, the Commission should interfere with market forces to the minimum extent necessary to achieve the telecommunications policy objectives. The Commission therefore considers that regulations that impose a high degree of market intervention should be reviewed as quickly as possible, and accordingly has assigned a higher priority to those regulatory measures.
18. The Commission considers that regulations that are broadly applied affect a large number of stakeholders and therefore should be given a higher priority than more narrowly focused regulations. Consequently, the breadth of a regulatory measure was another factor the Commission considered in determining the priority for review of its regulatory measures.
19. The Commission notes that some of its regulatory requirements, such as the obligation for parties to track, report, and file information with the Commission, can be burdensome for parties, and that there may be potential to reduce the burden through a streamlined process. The Commission also notes that as more markets become deregulated, there will be an increased need for the Commission to monitor and report with respect to those markets in an

efficient and effective manner. Consequently, the Commission also considered the potential that a regulatory measure has for streamlining in determining its priorities with respect to its future review of its regulatory measures.

20. The Commission's action plan to review the existing regulatory measures in order to implement the Policy Direction is set out in Appendix 1. The Commission intends to initiate proceedings with respect to those measures that have been assigned the highest priority during the current fiscal year. The Commission intends to initiate proceedings to review measures of a lower priority in fiscal years 2008-2009 and 2009-2010.
21. The Commission notes that, in determining the fiscal year in which to initiate its review of a particular regulatory measure, it had to give consideration to the resource constraints that such a review would impose on all parties, including the Commission. Therefore, in its action plan, the Commission has set out a schedule for its review of regulatory measures that it considers will provide a reasonable workload for all parties in each fiscal year that these reviews will take place.
22. The Commission notes that some of the regulatory measures that have been suggested for review are currently the subject of separate proceedings initiated prior to the issuance of Public Notice 2007-6. The Commission's deliberations on these measures will take the Policy Direction into account. Accordingly, these measures have been excluded from the action plan.
23. The Commission also notes that the prioritization of some of the regulatory measures that have been suggested for review – for example, those related to Phase II costing issues, interconnection issues, and essential services – are contingent on future events, such as the establishment of the Telecommunications Consumer Agency and the decisions resulting from the proceedings associated with *Review of regulatory framework for wholesale services and definition of essential service*, Telecom Public Notice CRTC 2006-14,² 9 November 2006 and *Review of certain Phase II costing issues*, Telecom Public Notice CRTC 2007-4, 30 March 2007. The Commission has identified these regulatory measures in its action plan but will not set a time frame for their review until these other matters are resolved.

Secretary General

² Public Notice 2006-14 was most recently amended on 20 March 2007 (Public Notice 2006-14-4).

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Review of regulatory measures – Action plan

| Regulatory measure | Timing for review |
|--|--------------------------|
| Rules governing bundles comprised of tariffed and non-tariffed services offered on a general tariff basis | 2007-2008 |
| Requirements for market trials | 2007-2008 |
| Mandatory customer notice obligation on contract renewal | 2007-2008 |
| Service destandardization/withdrawal requirements | 2007-2008 |
| Administration of competitive local exchange carrier (CLEC) interconnection by incumbent local exchange carrier (ILEC) | 2007-2008 |

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| Imputation test applicable to retail and wholesale services | 2008-2009 |
| Process for retail tariff filings | 2008-2009 |
| CLEC tariff filing process | 2008-2009 |
| CLEC agreement filing process | 2008-2009 |
| Creation of CLEC-voice over Internet Protocol (VoIP) category | 2008-2009 |
| Obligations to track and report data to CRTC and timelines for data collection | 2008-2009 |
| Basic international telecommunications services (BITS) licensing | 2008-2009 |

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| Rules relating to sharing groups | 2009-2010 |
| Various obligations relating to 900 service | 2009-2010 |
| Building access and municipal rights-of-way | 2009-2010 |
| CLEC requirement to sign 9-1-1 municipal agreements | 2009-2010 |
| Review, update, and consolidate Telecommunications Rules of Procedure | 2009-2010 |
| ILECs' provision of digital maps of exchanges for CLECs | 2009-2010 |

Review of regulatory measures – Action plan

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| Measures to be prioritized subsequent to the establishment of the Telecommunications Consumer Agency |
| Privacy safeguards and obligations |
| Various social obligations |
| Retail quality of service rate rebate plan and standards |
| Consumer Bill of Rights |
| Measures to be prioritized subsequent to the Commission's decision being issued with respect to the proceeding initiated by <i>Review of regulatory framework for wholesale services and definition of essential service</i>, Telecom Public Notice CRTC 2006-14 |
| Obligations to competitors not within the scope of Public Notice 2006-14 |
| Wireless Interconnection: Bill & Keep |
| Pricing of shared-cost interconnection facilities |
| Review interexchange carrier interconnection |
| Review and streamline CLEC interconnection obligations as they apply to small CLECs |
| Measures to be prioritized subsequent to the Commission's decision being issued with respect to the proceeding initiated by <i>Review of certain Phase II costing issues</i>, Telecom Public Notice CRTC 2007-4 |
| Local service subsidy regime |
| Other Phase II costing issues |
| Phase II costs use and methodology for price floors and regulated prices |
| Measure to be prioritized subsequent to the establishment of international standards |
| Geographic portability: porting of numbers outside home exchange |