



Telecom Decision CRTC 2015-392

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Télébec, Limited Partnership – Application for forbearance from the regulation of business local exchange services

*The Commission **approves** Télébec’s request for forbearance from the regulation of business local exchange services in the exchanges of Chesterville, Ham-Nord, Notre-Dame-de-Stanbridge, and St-André-Avellin (Quebec).*

Introduction

1. The Commission received an application from Télébec, Limited Partnership (Télébec), dated 22 February 2015, in which the company requested forbearance from the regulation of business local exchange services¹ in four exchanges in Quebec. A list of these exchanges is set out in Appendix 1 to this decision.
2. The Commission received submissions and/or data regarding Télébec’s application from Quebecor Media Inc., on behalf of its affiliate Videotron G.P. (Videotron), and Sogetel inc. (Sogetel). The public record of this proceeding, which closed on 19 May 2015, is available on the Commission’s website at www.crtc.gc.ca or by using the file number provided above.

Commission’s analysis and determinations

3. Pursuant to the Commission’s requirements in Telecom Decision 2006-15, Télébec provided evidence to support its forbearance request, including competitor quality of service (Q of S) results for the six months preceding its application, and a draft communications plan for the Commission’s approval. In addition, Télébec requested that the Commission apply the structured rule of reason, as defined in Telecom Decision 2006-15, rather than the usual competitor presence test.² Consequently, the Commission has examined the four criteria set out below.

¹ In this decision, “business local exchange services” refers to local exchange services used by business customers to access the public switched telephone network and any associated service charges, features, and ancillary services.

² In the usual competitor presence test, an applicant incumbent local exchange carrier must demonstrate that it has suffered a 25% market share loss in the relevant market for which forbearance is sought.

Product market

4. Télébec is seeking forbearance from the regulation of 23 tariffed business local exchange services, as listed in Appendix 2 to this decision. In Telecom Decision 2014-348, the Commission found that all of these services are eligible to be considered for forbearance.
5. The Commission received no interventions with respect to Télébec's proposed list of business local exchange services.

Market power

6. In Telecom Decision 2006-15, the Commission concluded that it would forbear from regulating the local exchange services of an incumbent local exchange carrier (ILEC) if the ILEC does not possess market power. For this application, the Commission has assessed the market power criterion using the conditions of the structured rule of reason, as defined in paragraph 213 of Telecom Decision 2006-15. These conditions are set out below:

- at least two independent, facilities-based service providers, the ILEC and a facilities-based entrant, must exist and be capable of offering local service that has been determined to fall within the relevant product market for ILEC local service;
- the entrant was able to obtain and retain a customer base;
- the entrant's variable costs of providing local service are similar to or lower than the ILEC's variable costs of providing local service;
- neither the ILEC nor the entrant is capacity-constrained;
- there is evidence of vigorous rivalry between the ILEC and the entrant in the provision of local service; and
- industry characteristics are such that the ILECs are unlikely to engage in anti-competitive behaviour.

Condition concerning the number of providers

7. Videotron, an independent, facilities-based local service provider, is present in the exchanges of Chesterville, Notre-Dame-de-Stanbridge, and St-André-Avellin (Quebec). Sogetel, an independent, facilities-based local service provider, is present in the exchange of Ham-Nord (Quebec).
8. Consequently, this condition is met in these exchanges.

Condition concerning obtaining and retaining a customer base

9. Based on the information submitted on the record of this proceeding, over the past four years, Télébec has continuously lost market share to Sogetel and Videotron.
10. Further, Sogetel and Videotron have been successful in the exchanges in which they offer services, and they have obtained and maintained a significant market share in those exchanges.
11. Consequently, this condition is met in the exchanges of Chesterville, Ham-Nord, Notre-Dame-de-Stanbridge, and St-André-Avellin (referred to hereafter as the identified exchanges).

Condition concerning variable costs

12. Télébec submitted, without contestation by Sogetel and Videotron, that it was reasonable to assume that Sogetel's and Videotron's variable cost structures were comparable to, or even lower than, Télébec's cost structure.
13. Consequently, this condition is met in the identified exchanges.

Condition concerning capacity

14. Télébec submitted that neither it nor Sogetel and Videotron had any constraints preventing them from expanding their networks. Further, neither Sogetel nor Videotron demonstrated that its network capacity was constrained in the identified exchanges, and both companies have the financial capacity to expand their networks.
15. Sogetel and Videotron are capable of expanding their networks if they decide to do so. Based on the market share that Sogetel and Videotron have acquired, these companies are able to compete with Télébec.
16. Consequently, this condition is met in the identified exchanges.

Condition concerning rivalry

17. Sogetel and Videotron have conducted marketing campaigns and offer competitive rates everywhere they offer services, including in the identified exchanges. Therefore, there is sufficient evidence demonstrating vigorous rivalry between Sogetel, Videotron, and Télébec in the provision of local services in the identified exchanges.
18. Consequently, this condition is met in the identified exchanges.

Condition concerning the possibility of the ILECs engaging in anti-competitive behaviour

19. Télébec submitted that Sogetel and Videotron have gained significant market share in Quebec exchanges entirely through the use of their own facilities.

20. Sogetel and Videotron are established service providers in Quebec. Consequently, these companies may react immediately and vigorously if Télébec engages in anti-competitive behaviour. In addition, the Commission has not received any complaints from competitors regarding anti-competitive behaviour by Télébec in other exchanges in which Télébec has been granted forbearance from regulation. It is therefore unlikely that Télébec would engage in anti-competitive behaviour if its application is approved.
21. Consequently, this condition is met in the identified exchanges.

Conclusion concerning market power

22. Sogetel stated that it was capable of serving at least 75% of the number of business local exchange service lines that Télébec is capable of serving in the exchange of Ham-Nord.
23. In light of the Commission's market power assessment and Sogetel's statement above, the Commission finds that the four exchanges listed in Appendix 1 meet the market power criterion.

Competitor Q of S results

24. Télébec submitted competitor Q of S results for the period of July to December 2014. These results demonstrate that during this six-month period, Télébec
 - met, on average, the Q of S standards for each indicator set out in Appendix B of Telecom Decision 2006-15, as defined in Telecom Decision 2005-20, with respect to the services provided to competitors in its territory; and
 - did not consistently provide any of those competitors with services that were below those Q of S standards.
25. Accordingly, Télébec meets the competitor Q of S criterion for this period.

Communications plan

26. The Commission has reviewed Télébec's proposed communications plan and finds that it meets the information requirements set out in Telecom Decision 2006-15. However, the company should (i) ensure that the plan applies to business services and not residential services by changing "residential" to "business" as required under the "Objectives" and "Key Messages" sections of the plan, and (ii) update the contact information for the government organizations as set out in Appendix 3 to this decision.
27. Accordingly, the Commission **approves** the proposed communications plan with the revisions outlined above and in Appendix 3 to this decision, and **directs** Télébec to provide the resulting communications materials to its customers, in both official languages where appropriate.

Conclusion

28. Télébec's application regarding the four exchanges in Quebec that are listed in Appendix 1 meets all the local forbearance criteria, including the structured rule of reason, set out in Telecom Decision 2006-15.
29. Pursuant to subsection 34(1) of the *Telecommunications Act* (the Act), the Commission finds as a question of fact that to refrain from exercising its powers and performing its duties, to the extent specified in Telecom Decision 2006-15, in relation to the provision, by Télébec in these exchanges, of the business local exchange services listed in Appendix 2 and of future local exchange services (as defined in Telecom Public Notice 2005-2 and as they pertain to business customers only) would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
30. Pursuant to subsection 34(2) of the Act, the Commission finds as a question of fact that these business local exchange services are subject to a level of competition in these exchanges sufficient to protect the interests of users of these services.
31. Pursuant to subsection 34(3) of the Act, the Commission finds as a question of fact that to refrain from exercising its powers and performing its duties, to the extent specified in Telecom Decision 2006-15, in relation to the provision by Télébec of these business local exchange services in these exchanges would be unlikely to unduly impair the continuance of a competitive market for these services.
32. In light of the above, the Commission **approves** Télébec's application for forbearance from the regulation of the local exchange services listed in Appendix 2 and future local exchange services (as defined in Telecom Public Notice 2005-2), as they pertain to business customers only, in the four exchanges listed in Appendix 1, subject to the powers and duties that the Commission has retained as set out in Telecom Decision 2006-15. This determination takes effect as of the date of this decision. The Commission **directs** Télébec to file revised tariff pages³ with the Commission within **30 days** of the date of this decision.

Secretary General

Related documents

- *Télébec, Limited Partnership – Application for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2014-348, 2 July 2014
- *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006, as amended by Order in Council P.C. 2007-532, 4 April 2007

³ Revised tariff pages can be submitted to the Commission without a description page or a request for approval; a tariff application is not required.

- *Forbearance from regulation of local exchange services*, Telecom Public Notice CRTC 2005-2, 28 April 2005
- *Finalization of quality of service rate rebate plan for competitors*, Telecom Decision CRTC 2005-20, 31 March 2005

Appendix 1 to Telecom Decision CRTC 2015-392

Exchanges for which Télébec requested forbearance from the regulation of its business local exchange services

Quebec

Chesterville

Ham-Nord

Notre-Dame-de-Stanbridge

St-André-Avellin

Appendix 2 to Telecom Decision CRTC 2015-392

Local exchange services eligible to be considered for forbearance from regulation in this decision (for business customers only)

Tariff	Item	List of services
25140	1.7	Telephone Set Loss Charge
25140	2.1.7.1	Monthly Rates for Access Lines, Regional Surcharges, and Other Fees
25140	2.1.7.4	Specialized Business Services
25140	2.1.8	Basic Services Provided Outside the Company's Serving Area
25140	2.1.11	Telephone Service for Senior Citizens' Club
25140	2.5	Telephones
25140	2.6	Access to Switched Automated Private Central Network Equipped with Direct Access
25140	2.8	Télébec Centrex Service
25140	2.10	Emergency Service
25140	2.15	Service to Immobilized Ships, Trailers and Trains
25140	2.23.2	Telephone Number Reservation/Activation – Rates and Fees
25140	2.27.6	Monthly Rates for Extra Listings
25140	2.27.7	Omission of Directory Listings (Business)
25140	3.1	Intra-Exchange Distance Charges
25140	3.3.17	Toll Restriction Service
25140	3.3.18	Call Management Services
25140	3.3.19	Call Display Blocking – Per Call
25140	5.2.6.5	900 Service – Call Blocking Service
25140	8.4	Internet Call Display

25140	8.7.3	Integrated Services Digital Network (ISDN) 2B+D Télébec – Rates and Fees
25140	8.9	Integrated Services Digital Network (ISDN) 23B+D Télébec – Premium Option
25140	8.11	Boreal Service
25140	8.13	Digital Exchange Service

Appendix 3 to Telecom Decision CRTC 2015-392

Changes to be made to the contact information (in English) for government organizations in Télébec's communications plan

Changed information is identified by *bold italics*:

Commissioner for Complaints for Telecommunications Services (CCTS)

Tel: 1-888-221-1687

TTY: 1-877-782-2384

Fax: 1-877-782-2924

www.ccts-cprst.ca

Write: P.O. Box ***56067*** - Minto Place RO, Ottawa, ON, K1R 7Z1

Email: response@ccts-cprst.ca

Canadian Radio-television and Telecommunications Commission

Tel: 1-877-249-2782

TTY: 1-877-909-2782

Fax: 1-819-994-0218

www.crtc.gc.ca

Ottawa, Ontario, K1A 0N2

Canadian Consumer Information Gateway - Office of Consumer Affairs

Tel: 343-291-3280

Fax: 613-952-6927

www.consumerinformation.ca

235 Queen Street, ***2nd*** Floor, ***West Tower***, Ottawa, ON, K1A 0H5

Competition Bureau of Canada

Tel: 1-800-348-5358

TTY: 1-800-642-3844

Fax: 1-819-997-0324

www.competitionbureau.gc.ca

Place du Portage I, 50 Victoria Street, **Room C-114**, Gatineau, Quebec, K1A 0C9

Office of the Privacy Commissioner of Canada

Tel: 1-800-282-1376

TTY: 819-994-6591

Fax: 819-994-5424

www.priv.gc.ca

30 Victoria Street, Gatineau, Quebec, K1A 1H3