



Telecom Public Notice CRTC 2006-12

Ottawa, 1 September 2006

Proceeding to reassess certain aspects of the local forbearance framework established in Decision 2006-15

Reference: 8663-C12-200610924, 8663-C12-200605587, 8640-C12-200607210 and 8640-C12-200505076

In this Public Notice, the Commission initiates a proceeding seeking comments regarding changes to market share loss thresholds established in Forbearance from the regulation of retail local exchange services, Telecom Decision CRTC 2006-15, 6 April 2006.

Given their relationship to market share loss levels, the issues identified in Proceeding to examine whether mobile wireless services should be considered to be in the same relevant market as wireline local exchange services with respect to forbearance, and related issues, Telecom Public Notice CRTC 2006-9, 16 June 2006, will also be examined in this proceeding.

Background

1. In *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006 (Decision 2006-15), the Commission established a framework for assessing applications for forbearance with respect to local exchange services pursuant to expedited procedures. The Commission determined that forbearance would be appropriate in accordance with the framework set out in Decision 2006-15, where, among other things, the incumbent local exchange carrier (ILEC) had lost at least 25 percent market share in a relevant market.
2. In *Reconsideration of Regulatory framework for voice communication services using Internet Protocol*, Telecom Decision CRTC 2006-53, 1 September 2006 (Decision 2006-53), released today, the Commission noted that the record of the proceeding resulting in that Decision demonstrated that competition in the residential local services market had developed rapidly in the last year and a half.
3. The Commission also noted that the record of the proceeding resulting in Decision 2006-15 was focused largely on year-end 2004 figures. Based on those figures, in Decision 2006-15 the Commission set a 25 percent threshold for ILEC market share loss as one of the criteria for forbearance. The Commission indicated in Decision 2006-15 that setting this threshold was not a precise scientific exercise, but one that sought to balance the need for competition in a relevant market to be sustainable and the desire to ensure that customers reap the benefits of competition in that market without undue delay.
4. In Decision 2006-53, the Commission considered that the data provided in the proceeding leading to that Decision, which included actuals up to May 2006, indicated that growth in residential local voice over Internet Protocol (VoIP) services was resulting in significantly stronger competition in the local exchange services market. The Commission noted that a large

proportion of the competitive share of the local exchange services market was facilities-based. The Commission considered, therefore, that local exchange competition in the residential market was more deeply rooted than it had appeared to be based on the record of the proceeding that led to Decision 2006-15. Given these changes in market conditions, the Commission considered that it would be appropriate to reassess whether or not the market share forbearance criterion threshold of 25 percent with respect to residential services set out in Decision 2006-15 continued to strike the appropriate balance between the competing interests identified in that Decision.

5. In addition, the Commission noted that while the evidence in the proceeding leading to Decision 2006-53 had focused substantially on the residential local services market, competition in the business services market had also continued to grow and might manifest similar characteristics. The Commission considered that it would therefore also be appropriate to reconsider the 25 percent market share forbearance criterion with respect to business services.
6. In light of its determination to reassess the 25 percent market share forbearance criterion, the Commission considered that it would also be appropriate to reassess the 20 percent market share loss threshold applicable to the transitional measure related to the local winback rule established in Decision 2006-15.
7. In *Proceeding to examine whether mobile wireless services should be considered to be in the same relevant market as wireline local exchange services with respect to forbearance, and related issues*, Telecom Public Notice CRTC 2006-9, 16 June 2006 (Public Notice 2006-9), the Commission invited comments regarding whether mobile wireless services, or a subset thereof, should be considered to be part of the same relevant market as wireline local exchange services for forbearance analysis purposes. The Commission also invited comments regarding several related issues.

Issues to be addressed in this proceeding

8. The Commission invites comments regarding whether the market share forbearance criterion threshold of 25 percent set out in Decision 2006-15 continues to strike the appropriate balance between the competing interests identified in that Decision with respect to both residential and business services. To the extent that parties consider that the threshold for either of these markets should be adjusted, comments are invited regarding an appropriate forbearance threshold.
9. The Commission also invites comments regarding whether the 20 percent market share loss threshold applicable to the transitional measure related to the local winback rule established in Decision 2006-15 remains appropriate. To the extent that parties consider that this threshold should be adjusted, comments are invited regarding an appropriate market share loss threshold.
10. The Commission notes that, other than the issues referred to in paragraph 11 below, the proceeding initiated by this Public Notice is limited to an examination of the appropriateness of the market share loss levels established in Decision 2006-15, and does not include within its scope, for instance, the four remaining criteria identified in Decision 2006-15 with respect to market power, nor whether market share loss is an appropriate criterion.

11. In addition, given the relationship between the issues related to mobile wireless services and relevant market, and the issues related to market share loss levels, the Commission considers that it would be appropriate and more efficient to address the issues identified in Public Notice 2006-9 (the mobile wireless services issues) in this proceeding.

Procedure

12. Coincident with the issuance of this Public Notice, the Commission has addressed interrogatories to the ILECs, competitive local exchange carriers (CLECs), and VoIP resellers with respect to issues regarding the market share loss thresholds.
13. The record of the proceeding initiated by Public Notice 2006-9 will form part of the record of this proceeding. The balance of the procedure set out in Public Notice 2006-9 as of this date is replaced by the procedure set out in this Public Notice.
14. All parties set out in the interested parties lists associated with the proceedings initiated by *Reconsideration of Regulatory framework for voice communication services using Internet Protocol*, *Telecom Decision CRTC 2005-28*, Telecom Public Notice CRTC 2006-6, 10 May 2006 and Public Notice 2006-9, and all CLECs, are made parties to this proceeding.
15. Other parties wishing to participate fully in this proceeding (including receiving copies of all submissions) must notify the Commission of their intention to do so by filling out the online form, or by writing to the Secretary General, CRTC, Ottawa, Ontario, K1A 0N2, or by faxing at: 819-994-0218 by **11 September 2006** (the registration date). They are to indicate in the notice their email addresses, where available. If parties do not have access to the Internet, they are to indicate in their notice whether they wish to receive disk versions of hard-copy filings.
16. The Commission will issue on its website, as soon as possible after the registration date, a complete list of parties and their mailing addresses (including their email addresses, if available), identifying those parties who wish to receive disk versions.
17. Any person who wishes merely to file written comments, without receiving copies of the various submissions, may do so by writing to the Commission by **22 September 2006** at the address or fax number noted above or by filling out the online form.
18. The Commission will not formally acknowledge comments. It will, however, fully consider all comments and they will form part of the public record of the proceeding.
19. Responses to interrogatories issued pursuant to the procedure in Public Notice 2006-9, and to interrogatories issued pursuant to paragraph 12 above, are to be filed with the Commission and served on all parties by **15 September 2006**.
20. Requests by parties for further responses to their interrogatories, specifying in each case why a further response is both relevant and necessary, and requests for public disclosure of information for which confidentiality has been claimed, setting out in each case the reasons for disclosure, must be filed with the Commission and served on the relevant party or parties by **21 September 2006**.

21. Written responses to requests for further responses to the interrogatories and for public disclosure must be filed with the Commission and served on the party or parties making the request by **27 September 2006**.
22. Determinations with respect to requests for further information and for public disclosure will be issued by **6 October 2006**. Any information to be provided pursuant to those determinations must be filed with the Commission and served on all parties, by **12 October 2006**.
23. All parties may file with the Commission, serving a copy on all other parties: (1) comments with regard to the market share loss issues, and (2) final comments with regard to the mobile wireless services issues, by **19 October 2006**.
24. All parties may file reply comments with the Commission, serving a copy on all other parties, by **26 October 2006**.
25. The Commission expects to issue a decision on the issues raised in this Public Notice within 120 days after the record closes.
26. Where a document is to be filed or served by a specific date, the document must be actually received, not merely sent, by that date.
27. Parties may file their submissions electronically or on paper. Submissions longer than five pages should include a summary.
28. Electronic submissions should be in HTML format. As an alternative, those making submissions may use "Microsoft Word" for text and "Microsoft Excel" for spreadsheets.
29. Each paragraph of all submissions should be numbered. In addition, the line *****End of document***** should be entered following the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
30. The Commission also encourages parties to monitor the record of this proceeding (and/or the Commission's website) for additional information that they may find useful when preparing their submissions.

Important notice

31. Note that all information that you provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, email or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes your personal information, such as your full name, email address, postal/street address, telephone and facsimile number(s), and any other personal information you provide.
32. Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as you send them, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.

33. The personal information you provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.

Location of CRTC offices

34. Submissions may be examined or will be made available promptly upon request at the Commission offices during normal business hours:

Toll-free telephone: 1-877-249-2782

Toll-free TDD: 1-877-909-2782

Central Building

Les Terrasses de la Chaudière

1 Promenade du Portage, Room 206

Gatineau, Quebec J8X 4B1

Tel: 819-997-2429

Fax: 819-994-0218

Metropolitan Place

99 Wyse Road, Suite 1410

Dartmouth, Nova Scotia B3A 4S5

Tel: 902-426-7997

Fax: 902-426-2721

205 Viger Avenue West, Suite 504

Montréal, Quebec H2Z 1G2

Tel: 514-283-6607

55 St. Clair Avenue East, Suite 624

Toronto, Ontario M4T 1M2

Tel: 416-952-9096

Kensington Building

275 Portage Avenue, Suite 1810

Winnipeg, Manitoba R3B 2B3

Tel: 204-983-6306 – TDD: 204-983-8274

Fax: 204-983-6317

Cornwall Professional Building

2125 – 11th Avenue, Suite 103

Regina, Saskatchewan S4P 3X3

Tel: 306-780-3422

10405 Jasper Avenue, Suite 520

Edmonton, Alberta T5J 3N4

Tel: 780-495-3224

580 Hornby Street, Suite 530
Vancouver, British Columbia V6C 3B6
Tel: 604-666-2111 – TDD: 604-666-0778
Fax: 604-666-8322

Secretary General

This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>