



Telecom Decision CRTC 2008-86

Ottawa, 8 September 2008

Bell Aliant Regional Communications, Limited Partnership – Application for forbearance from the regulation of business local exchange services

Reference: 8640-B54-200804832

In this Decision, the Commission approves Bell Aliant's request for forbearance from the regulation of business local exchange services in the exchange of Halifax, Nova Scotia.

Introduction

1. The Commission received an application by Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), dated 31 March 2008, in which the company requested forbearance from the regulation of business local exchange services¹ in the exchange of Halifax, Nova Scotia.
2. The Commission received submissions and/or data regarding Bell Aliant's application from Bragg Communications Inc., carrying on business as EastLink (EastLink), and MTS Allstream Inc. (MTS Allstream). The record of this proceeding, which closed on 6 May 2008, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

3. The Commission has assessed Bell Aliant's application based on the local forbearance test set out in Telecom Decision 2006-15, as amended by the Governor in Council's *Order Varying Telecom Decision CRTC 2006-15*, P.C. 2007-532, 4 April 2007 (modified Telecom Decision 2006-15), by examining the four criteria set out below.

a) Product market

4. The Commission received comments by MTS Allstream regarding the Centrex services that Bell Aliant proposed for forbearance. Subsequent to those comments, the Commission notes that in Telecom Decision 2008-57, dated 19 June 2008, it denied MTS Allstream's request to review and vary previous forbearance decisions concerning Centrex services. Therefore, the Commission considers that MTS Allstream's concern is no longer relevant to this Decision.

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.

5. The Commission notes that Bell Aliant is seeking forbearance for 32 tariffed business local exchange services. The Commission also notes that these services were either included in the list of services set out in Telecom Decision 2005-35 or found to be appropriate for forbearance by the Commission in previous decisions.² The list of approved services is set out in the Appendix to this Decision.

b) Competitor presence test

6. Bell Aliant submitted that EastLink, an independent facilities-based, fixed-line telecommunications service provider, offers business local exchange services in the Halifax exchange and is capable of serving over 75 percent of the business local exchange service lines that Bell Aliant is capable of serving. Bell Aliant used three methodologies to determine EastLink's capability: visual inspection, inspection of the main terminal room of a sample of business buildings, and evaluation of EastLink's capability to serve customers using its co-located facilities.
7. EastLink and MTS Allstream submitted that Bell Aliant has failed to demonstrate that there is an independent facilities-based competitor capable of serving 75 percent of the business local exchange service lines in the Halifax exchange. EastLink also argued that in Telecom Decision 2007-70 the Commission had acknowledged the difficulty associated with demonstrating competitor capability and had established a market share proxy to estimate competitor presence, which Bell Aliant did not apply in this case.
8. The Commission considers that, in this instance, there are other relevant factors, in addition to market share, that need to be considered.
9. The Commission notes that Bell Aliant submitted that it had experienced significant business customer losses for local exchange services in almost every business area of the Halifax exchange. Bell Aliant also submitted that EastLink has facilities in the vicinity of the large business districts and in most of the main terminal rooms of the many business buildings sampled by Bell Aliant. Further, Bell Aliant noted that EastLink is co-located at one of the large wire centres in the Halifax exchange and is therefore able to use Bell Aliant's facilities in conjunction with its own facilities to serve business customers. Bell Aliant therefore argued that EastLink is capable of serving over 75 percent of the business local exchange service lines that Bell Aliant is capable of serving.
10. When all relevant evidence, including market conditions, market share, and evidence of competitor capability, are taken into account collectively, the Commission is persuaded that there is at least one other independent facilities-based, fixed-line telecommunications service provider – EastLink – that offers local exchange services in the market and is capable of serving at least 75 percent of the number of business local exchange service lines that Bell Aliant is capable of serving in this exchange.
11. Accordingly, the Commission determines that the Halifax exchange meets the competitor presence test.

² These decisions are Telecom Decisions 2007-70, 2007-131, and 2008-10.

c) Competitor quality of service (Q of S) results

12. The Commission notes that Bell Aliant submitted competitor Q of S results for the period of August 2007 to January 2008.
13. The Commission has reviewed Bell Aliant's competitor Q of S results and finds that for two competitors it provided services that were below the Q of S standards; however, in each of these cases there was only one data point for the six-month period. The Commission notes that in Telecom Decision 2007-58 it considered that where there are only a few data points during a six-month period, there is insufficient data to make a finding that a company has consistently provided below-standard Q of S.
14. The Commission finds that Bell Aliant has demonstrated that during this six-month period it
 - i) met, on average, the Q of S standard for each indicator set out in Appendix B of modified Telecom Decision 2006-15, as defined in Telecom Decision 2005-20, with respect to the services provided to competitors in its territory; and
 - ii) did not consistently provide any of those competitors with services that were below those Q of S standards.
15. Accordingly, the Commission determines that Bell Aliant meets the competitor Q of S criterion for this period.

d) Communications plan

16. The Commission has reviewed Bell Aliant's draft communications plan and is satisfied that it generally meets the information requirements set out in modified Telecom Decision 2006-15. However, the Commission considers that the company should make the following changes to the plan:
 - i) List itself as the first point of contact for its local service customers' questions regarding local forbearance.
 - ii) Amend paragraph two of the section "Changes to regulation of your local phone service" as follows (*italics represent revisions to be made*):

The CRTC has directed Bell Aliant to maintain certain requirements, such as the provision of telephone directories, the continued provision of *local telephone access services on a stand-alone basis at no more than the most recently CRTC-approved rates*, and the maintenance of customer confidentiality provisions in the provision of local business exchange services in forborne areas.

- iii) Provide the contact information for the Canadian Consumer Information Gateway – Office of Consumer Affairs, Industry Canada:

Tel: 613-946-2576

Email: consumer.information@ic.gc.ca

235 Queen Street, 6th Floor West, Ottawa, Ontario K1A 0H5

iv) Provide the contact information for the Office of the Privacy Commissioner of Canada as follows:

Tel: 1-800-282-1376
TTY: 613-992-9190
Fax: 613-947-6850
www.privcom.gc.ca
112 Kent Street, Place de Ville, Tower B, 3rd Floor
Ottawa, Ontario, K1A 1H3

17. The Commission **approves** the proposed communications plan with the revisions noted above. The Commission directs Bell Aliant to provide the resulting communications materials to its customers in both official languages, where appropriate.

Conclusion

18. The Commission determines that Bell Aliant's application regarding the Halifax exchange meets all the local forbearance criteria set out in modified Telecom Decision 2006-15.
19. 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 modified Telecom Decision 2006-15, in relation to the provision by Bell Aliant of business local exchange services listed in the Appendix and future services that fall within the definition of local exchange services set out in Telecom Public Notice 2005-2 as they pertain to business customers only, in the exchange of Halifax, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
20. 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 this exchange sufficient to protect the interests of users of these services.
21. 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 modified Telecom Decision 2006-15, in relation to the provision by Bell Aliant of these business local exchange services would be unlikely to impair unduly the continuance of a competitive market for these services in this exchange.
22. In light of the above, the Commission **approves** Bell Aliant's application for forbearance from the regulation of the local exchange services listed in the Appendix and future services that fall within the definition of local exchange services set out in Telecom Public Notice 2005-2, as they pertain to business customers only, in the Halifax exchange, subject to the powers and duties that the Commission has retained as set out in modified Telecom Decision 2006-15. This determination takes effect as of the date of this Decision. The Commission directs Bell Aliant to file revised tariff pages with the Commission within 30 days.

Secretary General

Related documents

- *MTS Allstream Inc.'s request to review and vary two decisions related to Centrex services*, Telecom Decision CRTC 2008-57, 19 June 2008
- *The relevant product market for Centrex and Enhanced Exchange Wide Dial services for the purposes of forbearance from regulation*, Telecom Decision CRTC 2008-10, 31 January 2008
- *Bell Aliant Regional Communications, Limited Partnership– Application for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2007-131, 20 December 2007
- *Bell Aliant – Applications for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2007-70, 10 August 2007, as amended by Telecom Decision CRTC 2007-70-1, 22 August 2007, and Telecom Decision CRTC 2007-70-2, 29 November 2007
- *Forbearance from the regulation of residential local exchange services in Fort McMurray, Alberta*, Telecom Decision CRTC 2007-58, 25 July 2007
- *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
- *List of services within the scope of the proceeding on forbearance from the regulation of local exchange services*, Telecom Decision CRTC 2005-35, 15 June 2005, as amended by Telecom Decision CRTC 2005-35-1, 14 July 2005
- *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

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>

Local exchange services eligible for forbearance from regulation (for business customers only)

Tariff	Item	List of services
21491	125.3	Extra Listings
21491	125.4	Non-listed, Non-published service
21491	125.5	Contract Period for Chargeable Extra Listings
21491	125.6	Directories and Listings – Rates and Charges
21491	205.2	Business Single Line Access Service
21491	205.4	Business Multi-Line Access Service
21491	205.6	Hotel Service
21491	205.7	Charitable Access Service
21491	215.2	National Centrex Service
21491	215.5	Centrex Call Centre Service
21491	215.6	Regional Large Business Centrex Service
21491	304	Enhanced Local Calling Features
21491	308	Internet Call Manager
21491	310.1	Voice Messaging Services
21491	312	900 Call Denial/Blocking Service
21491	316	Universal Messaging
21491	320	Electronic Transfer Capability for Centrex
21491	326	Music on Hold
21491	328	Direct-Inward-Dialing for Access Service
21491	338	Answer Supervision
21491	358	Data Line Support Service
21491	360	Duplicate Service
21491	362	Client Calling Code Service
21491	364	Centrex IP Service
21491	502	Digital Exchange Access
21491	504	Megalink Service
21491	506	Microlink Service
10001	530	Other Service Charges (Centrex)
10001	631	Business Message Rate Service
10001	750-790	Centrex Business Service
10001	955-980	Small Business Network Service
10001	2100-2110	Local Conference Service