



Telecom Regulatory Policy CRTC 2009-243

Route reference: Telecom Public Notice 2008-10

Ottawa, 1 May 2009

Forbearance with respect to retail directory assistance services provided by the large incumbent local exchange carriers

File number: 8640-C12-200808074, 8640-T66-200803313, and 8640-B54-200804816

The Commission forbears conditionally, to the extent set out in this decision, from regulating the retail directory assistance (DA) services provided by Bell Aliant, Bell Canada, MTS Allstream, SaskTel, Télébec, and TCC. Forbearance with respect to each company's retail DA services is conditional on the company maintaining the current exemptions regarding its DA service charges and providing an optional DA blocking service to its customers at no charge.

Introduction

1. On 29 February 2008, the Commission received an application from TELUS Communications Company (TCC) requesting forbearance with respect to the regulation of its retail directory assistance (DA) services. On 28 March 2008, the Commission received a similar application from Bell Canada, on behalf of itself, Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), and Télébec, Limited Partnership (Télébec) [Bell Canada et al.], as amended on 28 May 2008.¹
2. On 11 June 2008, the Commission issued Telecom Public Notice 2008-10, in which it stated that the applications submitted by Bell Canada et al. and TCC raised policy issues that were common to the large incumbent local exchange carriers (ILECs). Accordingly, the Commission initiated a process to establish a framework for forbearance from the regulation of retail DA services, including clear criteria that it could use to determine when it is appropriate to forbear from regulating such services.
3. In Telecom Public Notice 2008-10, the Commission indicated that it would use the forbearance framework and criteria resulting from the proceeding thereby initiated in making a determination on Bell Canada et al.'s and TCC's applications, as well as any other applications requesting forbearance with respect to the regulation of retail DA services it may receive by 18 July 2008. Interested parties were invited to provide comments with respect to the appropriate framework and any related forbearance applications received by the above-noted date.
4. On 18 July 2008, the Commission received applications from MTS Allstream Inc. (MTS Allstream) and Saskatchewan Telecommunications (SaskTel) seeking forbearance from the regulation of their retail DA services.

¹ Consistent with Bell Canada et al.'s amendment to its application, this decision does not apply to NorthernTel, Limited Partnership.

5. This decision refers to the applicants collectively as the ILECs.
6. The following parties participated in this proceeding: Bell Canada et al.; MTS Allstream; the Public Interest Advocacy Centre, on behalf of itself, the Consumers' Association of Canada, and the National Anti-Poverty Organization (collectively, the Consumer Groups); SaskTel; the Telecommunications Workers Union (TWU); and TCC.
7. The public record of this proceeding, which closed on 22 August 2008, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

The applications

8. The ILECs requested that the Commission forbear wholly and unconditionally, under section 34 of the *Telecommunications Act* (the Act), from exercising its powers and performing its duties under sections 25, 27, 29, and 31 of the Act with respect to their regulated local and long distance retail DA services. The ILECs also generally requested that the Commission forbear from regulating automatic directory assistance call completion (ADACC) service² and call intercept service,³ as well as any future enhancements to DA services that would provide additional information to retail customers, such as maps and directions, as part of DA service (enhanced DA services).
9. The ILECs, with the exception of TCC, requested that the Commission maintain the exemptions from retail DA service charges presently provided in their tariffs, as a condition under section 24 of the Act. TCC requested that the Commission also forbear wholly and unconditionally from exercising its powers and performing its duties under section 24 of the Act, and noted that its application did not encompass the exemptions from retail DA service charges provided in its tariff.

Issues

10. The Commission notes that parties commenting on the framework and criteria issue proposed that the Commission adopt the framework and use the criteria to assess retail DA service forbearance applications set out in Telecom Decision 94-19. The Commission considers it appropriate to evaluate the applications received in light of the Telecom Decision 94-19 framework and proceeds to examine the following issues raised by the applications:
 - I. How are DA services defined?
 - II. What is the relevant market?
 - III. Should the Commission forbear from regulating the ILECs' retail DA services?

² ADACC service permits the service provider to complete a call following a DA service inquiry.

³ Call intercept service provides a caller with information about the status of a non-working telephone number and the new working telephone number, if any.

IV. If yes, what should be the scope of forbearance?

V. Would forbearance be consistent with the Policy Direction?⁴

I. How are DA services defined?

11. While the proposed definitions of DA services differed somewhat between the parties, there was general agreement that these services provide, on request, information related to local and long distance telephone listings, such as the name, address, and telephone number of residential and business subscribers as listed in the directory (referred to in this decision as listed telephone information). The ILECs agreed that the services under consideration in this proceeding should include ADACC service. SaskTel, supported by Bell Canada et al., submitted that DA services should also include future enhanced DA services, as well as its call intercept service. The Consumer Groups submitted that DA services consist of an operator or a machine helping a caller determine a telephone number via the telephone system.
12. The Commission notes that the ILECs' local DA service provides current listed telephone information in the requesting party's local calling area and, in the case of MTS Allstream, within Manitoba. The Commission also notes that the ILECs' long distance DA service provides current listed telephone information for other numbers in Canada and the United States and, in the case of MTS Allstream, in the United States and locations in Canada outside Manitoba.
13. For the purposes of this decision, the Commission considers that the ILECs' retail DA services consist of local DA service, long distance DA service for which forbearance has not already been granted,⁵ ADACC service, and future enhanced DA services. The Commission considers that call intercept service is not within the scope of this proceeding because its purpose is to ensure that subscribers continue to receive calls made to them rather than to provide customers with information allowing them to reach other subscribers.

II. What is the relevant market?

14. Pursuant to the forbearance framework set out in Telecom Decision 94-19, the first step in assessing the competitiveness of a market is to identify the relevant market. In that decision, the Commission defined the relevant market as the smallest group of products and geographic area in which a firm with market power can profitably impose a sustainable price increase. Each relevant market, therefore, will have both a product and a geographic component. The definition of the relevant market is based on the substitutability of the services in question.

⁴ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

⁵ The Commission forbore from regulation of the ILECs' DA services for listed telephone numbers outside Canada and the United States in Telecom Decision 97-19 (for ILECs other than SaskTel) and Decision 2000-150 (for SaskTel).

What is the relevant product market?

15. The ILECs submitted that the relevant product market includes all current and future services, from any provider, that provide listed telephone information to a requesting party for local and long distance numbers in Canada and the United States. The ILECs claimed that there are many alternatives to their local and long distance retail DA services. They submitted that the product market includes DA services available from, among others, Internet (online) directories, wireless service providers (WSPs), dial-around service providers such as Telehop, enhanced DA providers such as More 411, competitive local exchange carriers (CLECs), mobile text message service providers, toll-free accessible DA service providers, and alternative printed directories.
16. The Consumer Groups and the TWU submitted that the services indicated above should not be included in the relevant product market because they are not true substitutes for the ILECs' retail DA services, since many residential subscribers either cannot access them or cannot afford them. The Consumer Groups submitted further that only those stand-alone DA services of similar quality that are accessible by telephone and that allow users to speak directly with a person for DA service should qualify as substitutes for the ILECs' retail DA services. The Consumer Groups and the TWU submitted that, to be substitutes, alternative DA services should also provide comprehensive and current listed telephone information. In support of its position that the alternative services referred to by the ILECs do not provide current information, the TWU described examples where some of the online DA services it used to request listed telephone information for business establishments did not return that information.
17. The Commission notes that a determination of the relevant product market involves an assessment of the group of products that consumers would consider to be substitutes for the ILECs' retail DA services. The Commission considers that such substitutes are characterized by their ability to provide current listed telephone information, their accessibility to the ILECs' customers, their ease of use, and their prices, which should be comparable to the ILECs' retail DA service rates.
18. For the reasons indicated below, the Commission considers it likely that a significant increase in the ILECs' retail DA service rates would cause their customers to use one or more of the following services as substitutes for their DA services: online; WSP; enhanced; and, where available, dial-around DA services.
19. With respect to online and WSP DA services, the Commission notes that such services provide the ILECs' customers who are also Internet or wireless service subscribers, respectively, with listed telephone information that is reasonably current.
20. The Commission notes that a significant number of Canadian households subscribe to Internet or wireless service⁶ and that a decision to purchase such services is not based primarily on the ability to access online or WSP DA services. The Commission considers that the price of online DA services, which are generally provided free of charge, and the price of WSP DA services are reasonably comparable to the ILECs' retail DA service rates.

⁶ In 2007, 72 percent of Canadian households subscribed to Internet service and 71 percent subscribed to wireless service. Source: *CRTC Communications Monitoring Report 2008*, available at www.crtc.gc.ca

21. The Commission considers that Telehop's service, which provides current local and long distance listed telephone information at prices comparable to those charged by the ILECs, is a substitute for Bell Aliant's and Bell Canada's retail DA services in the areas within their territories where it is available.
22. The Commission notes that More 411 is an enhanced DA service that also provides a caller with current listed telephone information. The Commission considers that prices for this service, which bills on a per-second basis, are comparable to the ILECs' retail DA service rates.
23. The Commission considers that the ease of use of the alternatives discussed above is comparable to that of the ILECs' retail DA services. The Commission further notes that More 411 and Telehop are telephone-based services and that users may speak directly with a person to obtain DA service.
24. For the reasons indicated below, the Commission considers it unlikely that a significant increase in the ILECs' retail DA service rates would cause their customers to use the following products and services as substitutes for their DA services: CLEC, mobile text message, and toll-free accessible DA services; and alternative printed directories.
25. The Commission notes that the ILECs' customers cannot access CLEC DA services if they do not subscribe to a CLEC's local service. The Commission considers that most customers use DA services on an occasional basis and that considerations other than access to these services, including pricing, service quality, service options, service bundles, and customer satisfaction, are more relevant to a customer's choice of local service provider.
26. The Commission notes that mobile text message DA services require the user to submit accurately typed name and address information in order to retrieve correct listed telephone information. The Commission considers that an incorrect listing would likely be returned if the user were to seek telephone listing information for a customer with the same name as other customers or if any portion of the subscriber name or address submitted for query were incorrect or missing.
27. Finally, the Commission notes that toll-free accessible DA services generally provide only business listings and may not provide local and long distance numbers in both Canada and the United States. The Commission further notes that alternative printed directories generally do not contain current listing information, are limited to a given geographic area, and do not provide complete long distance listing information.
28. In light of the above, the Commission finds that online DA services, WSP DA services, and enhanced DA services are substitutes for each ILEC's retail DA services. In addition, the Commission finds that, in areas within the ILECs' territories where a dial-around provider offers service, that service is a substitute for the ILECs' retail DA services. The Commission also finds that CLEC DA services, mobile text message DA services, toll-free accessible DA services, and printed telephone directories are not substitutes for the ILECs' retail DA services.

What is the relevant geographic market?

29. MTS Allstream and TCC submitted that the relevant geographic market is national, while Bell Canada et al. and SaskTel submitted that it is each ILEC's serving territory.
30. The Commission notes that a determination of the relevant geographic market for a product or service involves assessing whether or not a customer would be willing to switch from a supplier in one area to a supplier in another area. While the relevant geographic market for the ILECs' retail DA services could be defined as narrowly as a customer's location, the Commission considers that such an approach is unworkable and that the relevant geographic market should contain an aggregation of customers to whom the same substitutes are available. The Commission notes that the ILECs' retail DA services are not substitutes for each other, as customers of one ILEC cannot use another ILEC's retail DA services.
31. Accordingly, the Commission determines that each ILEC's serving territory is the relevant geographic market for local and long distance DA services.

III. Should the Commission forbear from regulating the ILECs' retail DA services?

32. The Commission's power to forbear from regulating a telecommunications service or class of services provided by a Canadian carrier is set out in section 34 of the Act. Pursuant to the forbearance framework set out in Telecom Decision 94-19, the Commission has adopted the concept of market power to assess whether a market is, or is likely to become, sufficiently competitive to protect the interests of users.
33. In Telecom Decision 94-19 and subsequent decisions, the Commission considered a number of factors when assessing whether an ILEC possesses market power, including:
 - (i) market shares of the dominant and competing firms;
 - (ii) demand conditions affecting customer response to a change in the price of the product, including customers' ability to switch to another supplier or to reduce consumption (e.g. availability of practical substitutes, switching costs, importance of the product to the customer); and
 - (iii) supply conditions affecting the ability of other firms in the market to respond to a change in the price of the product, including the likelihood of entry into the market, barriers to entry, and evidence of rivalrous behaviour.

Market share criterion

34. The Commission notes that no party provided evidence of the service providers' respective market shares. The Commission notes, however, that the evidence shows that there are a number of unregulated alternative services in the relevant market.

Demand conditions criterion

35. The ILECs submitted that they do not possess market power because if they increase their retail DA service rates, their customers can use alternative providers' DA services. The ILECs submitted further that the Commission should have regard to the number and variety of alternative DA service providers, as well as to the ILECs' call volume trends, when assessing the ILECs' market power with respect to DA services. MTS Allstream submitted that the availability of at least one alternative supplier for a majority of wireline subscribers would suggest a lack of market power. TCC submitted that free online DA services were a significant factor in curtailing the ILECs' market power regarding retail DA services.
36. The ILECs submitted that, over the past several years, there have been substantial decreases in the volume of DA calls their customers make on their networks that cannot be attributed to the relatively small decrease in the number of local customers they serve. The ILECs submitted that these decreases indicate that customers are increasingly relying on DA alternatives and that it would therefore be appropriate for the Commission to forbear from regulating their retail DA services.
37. In support of this position, Bell Canada et al. and TCC provided data on online DA usage for their respective territories. Bell Canada et al., SaskTel, and TCC (for Alberta and British Columbia) also provided data on the decrease in their DA call volumes relative to the decrease in the number of their network access lines. MTS Allstream and TCC (for Quebec) provided data on the decrease in their DA call volumes.
38. The Consumer Groups and the TWU submitted that there will always be customers who need telephone-based DA services, including those with disabilities, seniors who may find alternative services less user-friendly than the telephone system, and consumers without Internet or wireless service. The Consumer Groups submitted that, despite decreases in the volume of DA service calls, these customers' use of the ILECs' retail DA services would not likely decrease.
39. The Consumer Groups submitted further that the ILECs' retail DA services are integral to the provision of basic local service and cannot be considered to be competitive, and therefore should not be forborne, in geographic areas where the Commission has not forborne from regulation of local service.
40. As noted above, the Commission has found that online, WSP, enhanced, and, where available, dial-around DA services are substitutes for the ILECs' local and long distance retail DA services. This finding is based on the listed telephone information available from these services as well as the services' accessibility to the ILECs' customers, ease of use, and price comparability to the ILECs' retail DA service rates. The Commission notes that these factors influence a customer's ability to switch from an ILEC's retail DA services to those of another provider. The Commission further notes that the evidence presented by Bell Canada et al. and TCC shows that there is significant use of online DA services by their customers.

41. With respect to the Consumer Groups' and the TWU's submissions regarding customer need for telephone-based DA services, the Commission notes that the ILECs provide various exemptions to their retail DA service charges, which are discussed below, and that enhanced and dial-around DA services are telephone-based services. With respect to the Consumer Groups' submission regarding the competitiveness of the ILECs' retail DA services, the Commission notes that the availability of substitutes for the ILECs' retail DA services is not limited geographically to areas where it has forborne from regulating local service.
42. In view of the above, the Commission concludes that demand conditions for local and long distance DA services are such that the ILECs' customers could use substitutes for these services in response to an increase in the ILECs' retail DA service rates.

Supply conditions criterion

43. The Commission notes its finding in this decision that there are substitutes for the ILECs' local and long distance retail DA services. It also notes that, in Telecom Decision 2008-17, it determined that basic listing interchange file service and directory file service would remain essential services with mandated rates. The Commission considers that the availability of these mandated services removes a barrier to the entry of alternative DA service providers. The Commission therefore considers that the record of this proceeding demonstrates there are no significant barriers to entry in the local and long distance retail DA services market.
44. In view of the above, the Commission concludes that supply conditions for local and long distance retail DA services are such that alternative service providers may readily enter the market in response to an increase in the price of the ILECs' retail DA services.

Conclusions

45. In light of the above, the Commission concludes that the ILECs do not possess market power for local and long distance retail DA services in their respective markets.
46. With respect to ADACC service, the Commission notes that a customer's use of local or long distance DA service is a precondition to the use of ADACC service. The Commission notes that customers, after obtaining a number through the ILECs' retail DA services, have the option of placing the call by dialing the telephone number themselves. Accordingly, the Commission concludes that the ILECs do not possess market power with regard to their ADACC services.
47. With regard to enhanced DA services that the ILECs may offer in the future, the Commission notes that More 411 and some online DA services currently provide the retail user with additional services and information, including maps and directions. The Commission also notes its finding that these services are substitutes for the local and long distance DA services that the ILECs currently provide. Accordingly, the Commission concludes that the ILECs would not possess market power with regard to enhanced DA services they may provide in the future.

Determinations with regard to subsections 34(1), (2), and (3) of the Act

48. With regard to subsection 34(1) of the Act, the Commission finds, as a question of fact, that forbearing from the regulation of each ILEC's retail DA services, to the extent provided for and subject to the conditions set out in this decision, would be consistent with the Canadian telecommunications policy objectives, specifically those in paragraphs 7(b), (c), (f), and (h) of the Act.⁷
49. The Commission also finds, pursuant to subsection 34(2) of the Act and as a question of fact, that the retail DA services provided by each ILEC are subject to competition sufficient to protect the interests of users and that it is therefore appropriate to refrain, to the extent provided for and subject to the conditions set out in this decision, from the regulation of each ILEC's retail DA services.
50. Pursuant to subsection 34(3) of the Act, the Commission finds as a question of fact that forbearance with respect to each ILEC's retail DA services, to the extent provided for and subject to the conditions set out in this decision, would not be likely to impair unduly the continuance of a competitive market for retail DA services.

IV. What should be the scope of forbearance?

51. The Commission notes that, pursuant to subsections 34(1) and (2) of the Act, it is empowered to forbear, in whole or in part and conditionally or unconditionally, from the exercise of any power or the performance of any duty under sections 24, 25, 27, 29, and 31 of the Act.
52. The ILECs submitted that, if the Commission finds that it should forbear from the regulation of their retail DA services pursuant to section 34 of the Act, it should forbear wholly and unconditionally from exercising its powers under sections 25, 27, 29, and 31 of the Act. TCC submitted that the Commission should also forbear from regulation under section 24 of the Act.
53. The Consumer Groups submitted that forbearance from the regulation of the ILECs' retail DA services might eliminate a service that furthers the objectives of paragraphs 7(a), (b), and (h) of the Act. They submitted further that, if the Commission decides to forbear from the continued regulation of the ILECs' retail DA services, it should impose as conditions, under section 24 or 34 of the Act, requirements that the ILECs: (i) maintain their retail DA services as stand-alone, pay-per-use services; (ii) not be permitted to charge, in addition to pay-per-use fees, access fees for their retail DA services; and (iii) continue to be subject to rate regulation for retail DA services used in conjunction with their stand-alone local services.

⁷ 7(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada;

7(c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications;

7(f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective;

7(h) to respond to the economic and social requirements of users of telecommunications services.

Exemptions regarding DA service charges

54. The ILECs, other than TCC, submitted that the retention of current exemptions regarding their retail DA service charges could be achieved by means of a section 24 condition. TCC submitted that such a condition was unnecessary because its forbearance application did not include these exemptions.
55. The Commission notes the submission of the Consumer Groups regarding the importance of the ILECs' retail DA services to certain customer groups, including those who have disabilities or who are senior citizens. The Commission also notes that the ILECs currently provide an exemption from retail DA service charges to customers with disabilities who register with them. Bell Canada, Bell Aliant in Ontario and Quebec, and Bell Aliant in Newfoundland also provide an exemption from retail DA service charges to customers who are senior citizens and who register with them. The Commission notes that all ILECs provide various other exemptions from their retail DA service charges.
56. Having regard to the policy objective in paragraph 7(*h*) of the Act in particular, the Commission requires that each ILEC maintain all existing exemptions from retail DA service charges as a condition of forbearance with respect to its DA services under subsections 34(1) and (2) of the Act. The Commission notes that the action plan set out in Telecom Decision 2008-34 calls for the review of the ILEC's exemptions from retail DA service charges for seniors and persons with disabilities.

Optional DA call blocking

57. The Consumer Groups submitted that the Commission should prohibit the ILECs from charging an access fee on top of regular user fees for retail DA services because access to these services is included in the basic service objective (BSO) that the Commission established for the ILECs in Telecom Decision 99-16. Bell Canada et al. and SaskTel submitted that such a restriction would be tantamount to continued rate regulation and therefore inconsistent with forbearance. MTS Allstream submitted that the ILECs would be guided by their obligation to ensure continued access to their retail DA services and that pricing constraints are not required.
58. The Commission notes that, in some cases, service providers in forborne markets have required that customers pay a monthly charge to access a specific telecommunications service. The Commission also notes that some ILECs offer their customers the option of using a DA blocking service at no charge.⁸
59. The Commission considers that, in a forborne environment, the option of DA call blocking should be available to the customers of all ILECs. Accordingly, having regard to the policy objective in paragraph 7(*h*) of the Act in particular, the Commission requires that each ILEC offer DA blocking service at no charge upon customer request, as a condition of forbearance with respect to its retail DA services under subsections 34(1) and (2) of the Act.

⁸ DA blocking service restricts a customer's line from accessing DA services.

Basic service objective

60. The Consumer Groups submitted that access to DA services is included in the ILECs' BSO. The Consumer Groups and the TWU submitted that forbearance from the regulation of the ILECs' retail DA services could result in the ILECs discontinuing the provision of these services.
61. The Commission notes that the BSO defined for the ILECs in Telecom Decision 99-16 includes the provision of access to DA services. The Commission concludes that forbearance from the regulation of the ILECs' retail DA services as set out in this decision does not remove, or otherwise modify, each ILEC's obligation to provide access to DA services.

Section 24

62. TCC requested that the Commission forbear from regulation of the ILECs' retail DA services under section 24 of the Act, which empowers the Commission to impose conditions on the offering and provision of the ILECs' retail DA services. The Consumer Groups submitted that, if the Commission were to grant forbearance, it should require the ILECs to maintain their retail DA services as stand-alone, pay-per-use services as a condition under section 24 or 34 of the Act, primarily because the affordability of these services is an issue for certain customers. The Commission notes that, as a condition of forbearance with respect to the ILECs' retail DA services, it is requiring the ILECs to maintain existing exemptions from retail DA service charges, including exemptions for registered customers who have disabilities or who are seniors.
63. Based on the above, the Commission considers that, in a forborne environment, the operation of market forces will generally be sufficient to protect the interests of users of DA services. However, in light of the telecommunications policy objectives in section 7 of the Act and paragraph 7(h) in particular, the Commission considers that it would be appropriate to retain its powers under section 24 of the Act in order to maintain its ability to impose future conditions as warranted. Accordingly, the Commission retains its powers under section 24 of the Act.

Section 25

64. The Consumer Groups submitted that, for reasons related to affordability and customer ease of use, the ILECs should continue to be subject to rate regulation for retail DA services used in conjunction with their stand-alone local services.
65. The Commission notes that the use of enhanced DA services does not require a customer to subscribe to Internet or wireless service and that, as a condition of forbearance, it is requiring the ILECs to maintain the existing exemptions regarding retail DA service charges. In view of this, and in light of its finding that the ILECs do not have market power concerning retail DA services, the Commission considers that requiring the ILECs to obtain prior Commission approval of retail DA service rates and terms would not represent efficient and effective regulation. Accordingly, the Commission concludes that it would be appropriate to forbear from the exercise of its powers and the performance of its duties under section 25 of the Act.

Section 27

66. With respect to the Consumer Groups' submission that the ILECs' rates for retail DA services could increase significantly if the Commission were to forbear under section 27, the Commission considers that, in a forborne environment, the operation of market forces will generally be sufficient to protect the interests of users of retail DA services. Accordingly, the Commission concludes that it would be appropriate to forbear from the exercise of its powers and the performance of its duties under subsections 27(1), (5), and (6) of the Act.
67. The Commission considers, however, that it would be appropriate to retain its powers and duties under subsection 27(2) of the Act to ensure that the ILECs do not unjustly discriminate or give an undue or unreasonable preference toward any person in relation to the provision of retail DA services. As a necessary consequence of the retention of its powers and duties under subsection 27(2) of the Act, the Commission considers that it should also retain its powers and duties under subsection 27(4) of the Act. Finally, the Commission considers it necessary to retain its powers under subsection 27(3) of the Act in order to ensure compliance with the powers and duties from which it is not forbearing.
68. Accordingly, the Commission retains its powers under subsections 27(2), (3), and (4) of the Act.

Sections 29 and 31

69. The Commission considers that section 29 of the Act addresses matters that are not relevant to the retail DA market and concludes that it would be appropriate to forbear with respect to its powers and duties under section 29 of the Act.
70. The Commission considers that, in a competitive market for retail DA services, carriers should be able to establish, through negotiations with their customers, the extent and scope of any limitations on their liability. Accordingly, the Commission concludes that it would be appropriate to forbear from the exercise of its powers and the performance of its duties under section 31 of the Act. The Commission notes, however, that any provision limiting liability in any existing contracts or arrangements, as of the date of this decision, will remain in force until its expiry.

Effective date of forbearance

71. For each ILEC, forbearance will be effective on the date of the Commission's approval of its application to revise its retail DA service tariffs to reflect the determinations in this decision, including those related to maintaining existing exemptions from retail DA service charges and providing optional DA call blocking at no charge upon customer request.

V. Would forbearance be consistent with the Policy Direction?

72. The Policy Direction requires, among other things, that the Commission rely on market forces to the maximum extent feasible as the means of achieving the Canadian telecommunications policy objectives. The Commission notes its finding that forbearance from the regulation of each ILEC's retail DA services, as set out in this decision, would be consistent with these objectives. The Commission considers that such forbearance would also be consistent with subparagraphs 1(a)(i) and (ii) of the Policy Direction.

73. Consistent with subparagraph 1(b)(i) of the Policy Direction, the Commission specifies that its determinations in this decision advance the telecommunications policy objectives in paragraphs 7(b), (c), (f), and (h) of the Act. Consistent with subparagraph 1(b)(ii) of the Policy Direction, the Commission considers that its determinations in this decision neither deter economically efficient competitive entry into the retail DA services market nor promote economically inefficient entry.

Conclusion

74. In light of all the above, the Commission **approves**, as set out in this decision, the ILECs' applications for forbearance from the regulation of their retail DA services, conditional on the ILECs maintaining the current exemptions regarding their DA service charges and providing optional DA blocking services to their customers at no charge.

Secretary General

Related documents

- *Forbearance with respect to retail directory assistance services provided by the large incumbent local exchange carriers*, Telecom Public Notice CRTC 2008-10, 11 June 2008
- *Action plan for reviewing social and other non-economic regulatory measures in light of Order in Council P.C. 2006-1534*, Telecom Decision CRTC 2008-34, 17 April 2008
- *Revised regulatory framework for wholesale services and definition of essential service*, Telecom Decision CRTC 2008-17, 3 March 2008
- *SaskTel – Transition to federal regulation*, Decision CRTC 2000-150, 9 May 2000
- *Telephone service to high-cost serving areas*, Telecom Decision CRTC 99-16, 19 October 1999
- *Forbearance – Regulation of toll services provided by incumbent telephone companies*, Telecom Decision CRTC 97-19, 18 December 1997, as amended by Telecom Decision CRTC 97-19-1, 9 March 1998
- *Review of regulatory framework*, Telecom Decision CRTC 94-19, 16 September 1994

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