



Telecom Decision CRTC 2012-141

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Ottawa, 8 March 2012

PIAC – Application regarding the provision of third-party Internet access service in Bragg Communications Inc.’s operating territory

File number: 8622-P8-201015925

Background

1. Retail Internet services are provided in Canada predominantly through high-speed connections, which are offered by incumbent local exchange carriers (ILECs) and cable carriers. In the late 1990s, the Commission determined that it was no longer necessary to regulate the rates for retail Internet services, because the market for these services was sufficiently competitive to offer consumers choices and competitive prices. However, in order to foster competition, the Commission requires ILECs and cable companies to make wholesale high-speed access services available to independent service providers at regulated rates.
2. The wholesale high-speed access service provided by cable companies is called third-party Internet Access (TPIA). Currently, Cogeco Cable Inc., Rogers Cable Communications Inc., Shaw Communications Inc., and Videotron Ltd. are required to make TPIA services available to competitors. Bragg Communications Inc., operating as EastLink (Bragg), is not subject to this requirement.

The application

3. The Commission received an application from the Public Interest Advocacy Centre (PIAC), on behalf of itself and Canada Without Poverty (collectively, the Consumer Groups), dated 25 October 2010, requesting that the Commission subject Bragg to the directives set out in *Wholesale high-speed access services proceeding*, Telecom Regulatory Policy CRTC 2010-632, 30 August 2010, regarding the deployment of TPIA service.
4. The Commission received comments from Bragg and the Canadian Network Operators Consortium Inc. (CNOOC).
5. The public record of this proceeding, which closed on 16 August 2011, is available on the Commission’s website at www.crtc.gc.ca under “Public Proceedings” or by using the file number provided above.

Should Bragg be required to provide TPIA service in its operating territory?

6. The Consumer Groups and CNOG submitted that TPIA service should be mandated in Bragg's operating territory, in order to bring the benefits of competition to the Atlantic region. The Consumer Groups argued that there is no regulatory equity between the ILEC (Bell Aliant Regional Communications, Limited Partnership), and the cable carrier (Bragg), in the Atlantic region with respect to wholesale high-speed access service. The Consumer Groups submitted that directing Bragg to provide TPIA service would provide regulatory symmetry, and would be consistent with the Policy Direction.¹
7. Bragg noted that TekSavvy Solutions Inc. (TekSavvy) had requested TPIA service in the Halifax Regional Municipality, indicating that if a TPIA solution was not available, TekSavvy would be interested in a resale arrangement in the interim. Bragg indicated that the two parties had therefore negotiated and executed an agreement for the resale of its retail high-speed Internet service. Bragg submitted that, for technical reasons, it was not possible for it to provision TPIA service at this time, and that it had been in contact with its vendor in the interest of working towards a solution.

Commission's analysis and determinations

8. The Commission notes the ongoing negotiations between Bragg and TekSavvy for the provision of TPIA service, as well as Bragg's submission that it is experiencing technological challenges in provisioning a TPIA solution at this time.² The Commission considers that, while there are some competitive alternatives available through the use of resale arrangements and an ILEC-provided wholesale high-speed access service, the availability of TPIA service in the Atlantic region could further enhance competition for retail high-speed Internet service.
9. The Commission notes that the Policy Direction requires, among other things, that it rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives set out in the *Telecommunications Act*. The Commission considers that, in these circumstances, it would be appropriate to allow parties to complete negotiations without Commission intervention at this time. The Commission considers that this approach is consistent with the Policy Direction.
10. Accordingly, the Commission **denies** the Consumer Groups' application. The Commission will allow the parties to continue negotiations, and expects that Bragg will make TPIA service available as soon as it resolves its technical issues.

Secretary General

¹ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

² A detailed explanation of Bragg's technical challenges was filed with the Commission in confidence.