



## Telecom Notice of Consultation CRTC 2017-49

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Ottawa, 23 February 2017

*File number: 1011-NOC2017-0049*

### Call for comments

### Review of the competitor quality of service regime

**Deadline for submission of interventions: 24 April 2017**

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*The Commission invites comments on whether a competitor quality of service regime continues to be required and, if so, how it should be structured, taking into account recent changes in the telecommunications marketplace and the Commission's regulatory measures.*

#### Introduction

1. The existing competitor quality of service (Q of S) regime has been in place since the Commission finalized the rate rebate plan (RRP) for competitors in Telecom Decision 2005-20. This regime enables the Commission to monitor the large incumbent local exchange carriers' (ILECs) provision of certain services to their competitors, to ensure that the ILECs' Q of S is sufficiently high to enable competitors to compete in the marketplace. It requires the ILECs to pay rebates to competitors when performance results for certain competitor-related indicators are below established standards, unless the Commission determines otherwise.<sup>1</sup>
2. In 2001, when establishing new competitor Q of S indicators, the Commission found that monitoring competitor Q of S service intervals and standards was appropriate to foster local telephone competition. Specifically, it considered that there was a continuing need for regulation of ILEC Q of S indicators due to low levels of competition in some areas. In setting new standards of service for the ILECs, the Commission expected to foster an environment where competitive local exchange

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<sup>1</sup> In Telecom Decision 2005-20, the Commission established which indicators would be included in the RRP, based on eight guiding principles set out in that decision. Appendix B to Telecom Decision 2005-20 lists all competition-related Q of S indicators. The large ILECs are currently required to submit their monthly results for these indicators in quarterly reports. They must also conduct annual internal and external audits of these results, RRP calculations, and any rate rebate payments, and file with the Commission a report on their findings and any issues raised.

carriers (CLECs) were better able to meet customer expectations and compete in the market more effectively.<sup>2</sup>

3. The RRP was intended to ensure, among other things and without being punitive, that the ILECs have adequate incentive to meet their competitor Q of S obligations and to support the rates, terms, and conditions for the wholesale services subject to the RRP.<sup>3</sup> If an ILEC considers that a performance failure for a competitor Q of S indicator is attributable to circumstances beyond its control, it may apply to the Commission for a determination that the relevant failure should be excluded from its competitor Q of S results.
4. The competitor Q of S regime, including the RRP, currently applies to the large ILECs,<sup>4</sup> excluding Northwestel Inc. (Northwestel). In Telecom Decision 2007-109, the Commission specifically excluded small ILECs from the RRP based on its view that the additional costs and resources required for that purpose could impair the small ILECs' ability to compete against new competitors in the local exchange services market. However, the Commission considered that a competitor Q of S monitoring system should be in place and that the existing complaint-based system<sup>5</sup> was sufficient for that purpose at that time. Since then, local exchange competition has been implemented in the territories of many small ILECs. Local exchange competition was introduced in Northwestel's territory in 2012.
5. While cable carriers and wireless carriers provide regulated wholesale services, their services are not covered by the current competitor Q of S regime. The Canadian Network Operators Consortium Inc. (CNOOC) has requested that the Commission address competitor Q of S issues that fall outside the current regime. In September 2013, it requested relief regarding the provision of wholesale high-speed access services by Cogeco Cable Inc.,<sup>6</sup> Rogers Communications Partnership (RCP),<sup>7</sup> Shaw Cablesystems G.P., and Videotron G.P. to independent Internet service providers,

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<sup>2</sup> See Decisions 2001-217 and 2001-366.

<sup>3</sup> The current competitor Q of S indicators, including those in the RRP, are associated with the ordering and provisioning processes for the following ILEC wholesale services: unbundled local loops (ULLs), local number portability, local network interconnection (LNI) trunks, local service requests, and competitor digital network (CDN) services. They also cover, among other things, clearance of trouble reports related to ULLs and LNI trunks, and mean time to repair for CDN services and Type C loops.

<sup>4</sup> The companies included are Bell Canada; MTS Inc.; Saskatchewan Telecommunications; Télébec, Limited Partnership; and TELUS Communications Company.

<sup>5</sup> In Telecom Decision 96-6, the Commission determined that for the small ILECs with fewer than 25,000 network access services (NAS), issues pertaining to Q of S would be addressed via complaints lodged concerning a particular small ILEC. In Decision 2001-756, the Commission required small ILECs with fewer than 25,000 NAS to report statistics in five categories related to (retail) service issues. These reports are to be filed annually.

<sup>6</sup> As of 14 January 2016, Cogeco Cable Inc. operates as Cogeco Communications Inc.

<sup>7</sup> RCP ceased to exist as of 1 January 2016. All of RCP's business activities, including its assets and liabilities, are now held by Rogers Communications Canada Inc.

such as the members of CNOC. The Commission issued its determinations on that proceeding in Telecom Decision 2015-40 and, as a result, an ad-hoc CRTC Interconnection Steering Committee (CISC) Wholesale High-Speed Access Working Group was created to address some of the issues raised by CNOC.<sup>8</sup>

6. The telecommunications marketplace and the Commission's regulatory measures have changed since Telecom Decision 2005-20 was issued. For example, the existing competitor Q of S indicators were established when competition for local wireline voice services, based on leased facilities, was growing. In recent years, however, wholesale revenues associated with wireline local exchange and long distance services have decreased, while those associated with Internet and mobile wireless services have increased.<sup>9</sup> In addition, new wholesale services have been introduced, some of which have been mandated. However, demand has declined for certain legacy services covered by the current competitor Q of S regime, and for some of those services – for example, high-speed competitor digital network services and unbundled local loops – the mandatory provision of these services has been or is being phased out.<sup>10</sup>
7. The competitor Q of S regime has played a key role in the local forbearance process because the large ILECs are required to meet certain competitor Q of S standards as a condition for obtaining forbearance from the regulation of retail local exchange services.<sup>11</sup> The Commission has granted forbearance from regulating local exchange services in many of the large ILECs' exchanges.<sup>12</sup>
8. Recently, the Commission started regulating wholesale roaming rates for certain wireless carriers – namely, Bell Mobility Inc., Rogers Communications Canada Inc., and TELUS Communications Company.<sup>13</sup> It has also gained the power to impose administrative monetary penalties (AMPs) to promote compliance with the *Telecommunications Act*, regulations, or Commission decisions.<sup>14</sup>

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<sup>8</sup> In addition, in a submission during the proceeding leading to Telecom Regulatory Policy 2015-326, CNOC requested that the Commission introduce a series of Q of S indicators and an RRP to improve the delivery of third-party Internet access services to Internet service providers. In a letter dated [23 September 2014](#), the Commission excluded all issues pertaining to competitor Q of S from the scope of that proceeding, noting that it intended to review the competitor Q of S indicators and the RRP for competitors through a separate process.

<sup>9</sup> See the 2016 CRTC *Communications Monitoring Report*, Table 5.6.2 and Figure 5.6.2.

<sup>10</sup> See Telecom Regulatory Policy 2015-326.

<sup>11</sup> See Telecom Decision 2006-15, as modified by Order in Council P.C. 2007-532.

<sup>12</sup> The Commission has issued approximately 130 local forbearance decisions for the large ILECs since Telecom Decisions 2005-20 and 2006-15 were issued.

<sup>13</sup> See Telecom Regulatory Policy 2015-177.

<sup>14</sup> See Compliance and Enforcement and Telecom Information Bulletin 2015-111.

9. The Policy Direction<sup>15</sup> states that the Commission should, among other things, (i) rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives, and (ii) when relying on regulation, use measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives.

### **Call for comments**

10. In light of the above, the Commission invites comments on whether a competitor Q of S regime continues to be required and, if so, how it should be structured, taking into account recent changes in the telecommunications marketplace and the Commission's regulatory measures. Specifically, responses should address the following:

#### **Requirement for a competitor Q of S regime**

- Q1. How has the current Q of S regime performed in fostering competition?
- Q2. Are market forces sufficient to ensure a high level of service or are Q of S regulatory measures required?
- Q3. If a competitor Q of S regime is required, what should its objectives be?
- Q4. If other regulatory measures are required, what should they include?

#### **Appropriateness of the current RRP**

- Q5. Does the current RRP for competitors remain appropriate? That is, does it provide adequate incentive to maintain a high Q of S?
- Q6. If an RRP for competitors is required, are the guiding principles established in Telecom Decision 2005-20 still appropriate? If the existing guiding principles are no longer appropriate, what principles should be adopted?
- Q7. What indicators, if any, should be included in the RRP for competitors? Include details and rationale about any proposed new or revised indicators, such as proposed indicator names and definitions, and service standards.
- Q8. Should another mechanism be considered as an enforcement mechanism, either alone or in conjunction with the RRP for competitors?

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<sup>15</sup> *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

### **Types of services that should be included**

Q9. What criteria should be used to select the types of services, if any, that should be included in the competitor Q of S regime?

Q10. What specific services should be subject to the regime?

### **Service providers to which a regime should apply**

Q11. Should the competitor Q of S regime be expanded to include cable carriers, wireless carriers, small ILECs, and Northwestel? If so, should the competitor Q of S regime apply to all such carriers or should there be a threshold based on the size of the company and/or other factors?

Q12. Does the complaint-based system continue to be the best means of monitoring Q of S for small ILECs?

### **Requirement for an exclusion application process**

Q13. Does the exclusion application process continue to be required? If so, should any changes be made to the current process?

### **Reporting requirements**

Q14. What, if any, reporting requirements should be imposed in the future?

Q15. If reporting is required, which performance indicators should be included?

### **Transition to a new regime**

Q16. How should any changes to the regime be phased in or out, and what would be the best way to make the transition to a new regime?

### **Time frame to review the new regime**

Q17. What is an appropriate time frame to begin a review of the new regime?

11. In their interventions, parties should provide supporting rationale and all evidence on which they rely to formulate their position. Although the topics and questions above may be interrelated and interdependent, parties should structure their submissions as set out above.
12. The Commission will review the matters raised in this proceeding in light of the policy objectives set out in section 7 of the Act and taking into consideration the Policy Direction. Parties should also take these into account and address their relevant aspects, as applicable, when submitting their responses to the questions.

13. The Commission will finalize the appropriate minimum level of service – for example, service intervals – associated with any competitor Q of S indicator resulting from this proceeding through a separate follow-up process.

## **Procedure**

14. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to this proceeding. The Rules of Procedure set out, among other things, the rules for the content, format, filing, and service of interventions, answers, replies, and requests for information; and the procedure for filing confidential information and requesting its disclosure. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and related documents, which can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca), under "[Statutes and Regulations](#)." The guidelines set out in Broadcasting and Telecom Information Bulletin 2010-959 provide information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.
15. All ILECs, including Northwestel and the small ILECs, as well as cable carriers and wireless carriers, are made parties to this proceeding and may file interventions with the Commission by **24 April 2017**. A request for information from relevant stakeholders is being issued today, sent by separate letter. The applicable deadlines and procedures are set out in the letter.
16. Interested persons who wish to become parties to this proceeding must file an intervention with the Commission regarding the above-noted issues by **24 April 2017**. The intervention must be filed in accordance with section 26 of the Rules of Procedure.
17. Parties are permitted to coordinate, organize, and file, in a single submission, interventions by other interested persons who share their position. Information on how to file this type of submission, known as a joint supporting intervention, as well as a [template](#) for the accompanying cover letter to be filed by parties, can be found in Telecom Information Bulletin 2011-693.
18. All documents required to be served on parties to the proceeding must be served using the contact information contained in the interventions.
19. The Commission and parties may request information, in the form of interrogatories, from any party to the proceeding. The requesting party must file its request for information with the Commission, and serve the request on the party to whom it is addressed, by **24 May 2017**.
20. Responses to requests for information are to be filed with the Commission, and served on all parties, by **23 June 2017**.
21. Parties may request (i) further responses to interrogatories, specifying in each case why a further response is necessary, and (ii) the public disclosure of information that

has been designated confidential, setting out in each case the reasons for disclosure. These requests must be filed with the Commission, and served on the parties to whom they are addressed, by **7 July 2017**.

22. Responses to requests for further responses to interrogatories and responses to requests for public disclosure must be filed with the Commission, and served on the parties making the requests, by **21 July 2017**.
23. Determinations regarding requests for further responses and requests for public disclosure will be issued as soon as possible.
24. All parties may file final replies with the Commission, serving copies on all other parties, by **25 August 2017**.
25. The Commission encourages interested persons and parties to monitor the record of this proceeding, available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca), for additional information that they may find useful when preparing their submissions.
26. Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and the line **\*\*\*End of document\*\*\*** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
27. Pursuant to Broadcasting and Telecom Information Bulletin 2015-242, the Commission expects incorporated entities and associations, and encourages all Canadians, to file submissions for Commission proceedings in accessible formats (for example, text-based file formats that enable text to be enlarged or modified, or read by screen readers). To provide assistance in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats.
28. Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

**by completing the**  
[\[Intervention form\]](#)

or

**by mail to**  
CRTC, Ottawa, Ontario K1A 0N2

or

**by fax to**  
819-994-0218

29. Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that service/filing of a particular document was

completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed. The Commission advises parties who file and serve documents by electronic means to exercise caution when using email for the service of documents, as it may be difficult to establish that service has occurred.

30. In accordance with the Rules of Procedure, a document must be received by the Commission and all relevant parties by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.
31. The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.

### **Important notice**

32. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, facsimile, email, or through the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca), becomes part of a publicly accessible file and will be posted on the Commission's website. This includes all personal information, such as full names, email addresses, postal/street addresses, and telephone and facsimile numbers.
33. The personal information that parties 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.
34. Documents received electronically or otherwise will be posted on the Commission's website in their entirety exactly as received, 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.
35. The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

### **Availability of documents**

36. Electronic versions of the interventions and other documents referred to in this notice are available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) by using the file number provided at the beginning of this notice or by visiting the "Participate" section of the Commission's website, selecting "Submit Ideas and Comments," then

selecting “our open processes.” Documents can then be accessed by clicking on the links in the “Subject” and “Related Documents” columns associated with this particular notice.

37. Documents are also available at the following address, upon request, during normal business hours.

Les Terrasses de la Chaudière  
Central Building  
1 Promenade du Portage  
Gatineau, Quebec J8X 4B1  
Tel.: 819-997-2429  
Fax: 819-994-0218

Toll-free telephone: 1-877-249-2782  
Toll-free TDD: 1-877-909-2782

Secretary General

### **Related documents**

- *Review of wholesale wireline services and associated policies*, Telecom Regulatory Policy CRTC 2015-326, 22 July 2015; as amended by Telecom Regulatory Policy CRTC 2015-326-1, 9 October 2015
- *Regulatory framework for wholesale mobile wireless services*, Telecom Regulatory Policy CRTC 2015-177, 5 May 2015
- *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015
- *Guidelines regarding the general administrative monetary penalties regime under the Telecommunications Act*, Compliance and Enforcement and Telecom Information Bulletin CRTC 2015-111, 27 March 2015
- *Canadian Network Operators Consortium Inc. – Application to improve the quality of wholesale high-speed access services provided by cable carriers to independent Internet service providers*, Telecom Decision CRTC 2015-40, 12 February 2015
- *Filing of joint supporting interventions*, Telecom Information Bulletin CRTC 2011-693, 8 November 2011
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010
- *Small incumbent local exchange carriers’ show cause – Follow-up to Telecom Decision 2006-14*, Telecom Decision CRTC 2007-109, 21 November 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
- *Finalization of quality of service rate rebate plan for competitors*, Telecom Decision CRTC 2005-20, 31 March 2005
- *Regulatory framework for the small incumbent telephone companies*, Decision CRTC 2001-756, 14 December 2001
- *CISC recommended competition-related Quality of Service indicators – Follow up to Decision CRTC 2001-217*, Decision CRTC 2001-366, 20 June 2001
- *CRTC creates new quality of service indicators for telephone companies*, Decision CRTC 2001-217, 9 April 2001
- *Regulatory framework for the independent telephone companies in Quebec and Ontario (except Ontario Northland Transportation Commission, Québec-Téléphone and Télébec Ltée)*, Telecom Decision CRTC 96-6, 7 August 1996; as amended by Telecom Decision 96-6-1, 17 September 1996