



Telecom Decision CRTC 2019-390

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Ottawa, 2 December 2019

Public record: 8622-R28-201902940

Rogers Communications Canada Inc. – Application regarding routing of the company’s toll-free traffic destined for Bell Canada’s toll-free telephone number customers

*In order to enhance the efficiency and competitiveness of Canadian telecommunications, and to ensure that regulatory measures relating to network interconnection arrangements promote competitive neutrality, the Commission **directs** Bell Canada, as a condition of providing its Routing of CLEC 800/888 Calls service, to deploy one-way toll trunks to connect with RCCI’s switches in the Bell Canada operating territories in which RCCI also provides service. These toll trunks are to be deployed for the routing of RCCI-originating toll-free (TF) traffic to Bell Canada’s toll-free telephone number (TFTN) customers, within **150 days** of the date of this decision. The Commission also **directs** Bell Canada to file with the Commission, at least **30 days** prior to completing the deployment of the toll trunks, proposed revised tariff pages indicating that Bell Canada will receive RCCI-originating TF traffic destined for Bell Canada’s TFTN customers over the toll trunks deployed to RCCI’s switches.*

*The Commission **denies** RCCI’s request to start billing Bell Canada, as of 1 April 2019, for all TF-related charges and minutes associated with RCCI-originating TF traffic destined for Bell Canada’s TFTN customers. The Commission determines that it would be appropriate for RCCI to begin charging Bell Canada for the traffic in question commencing on the date that Bell Canada completes the deployment of its one-way toll trunks to RCCI’s switches.*

Application

1. The Commission received an application from Rogers Communications Canada Inc. (RCCI), dated 29 April 2019, in which the company submitted that Bell Canada was conferring an undue preference on itself by its unwillingness to replace the existing network interconnection arrangement between the two companies for the routing of toll-free (TF) traffic (also referred to as 800/888 traffic) with an arrangement that RCCI claimed would be more equitable.

2. RCCI requested that the Commission grant the following relief:

- confirm that RCCI is not mandated to route one-way TF traffic destined for Bell Canada's toll-free telephone number (TFTN) customers over RCCI's two-way bill-and-keep (B & K) trunks;¹
- direct Bell Canada, acting as an interexchange carrier (IXC),² to deploy toll trunks³ to connect to RCCI's switches in order to receive from RCCI TF traffic destined for Bell Canada's TFTN customers;⁴
- confirm that, until Bell Canada's toll trunks are deployed (i.e. pending the conclusion of this proceeding), RCCI can start billing Bell Canada, as of 1 April 2019, for all TF-related charges (i.e. RCCI's 800/888 Carrier Identification Charge); and
- confirm that, until Bell Canada's toll trunks are deployed (i.e. pending the conclusion of this proceeding), RCCI can start billing Bell Canada, as of 1 April 2019, for all TF minutes that are destined for Bell Canada's Carrier Identification Code.

3. The Commission received interventions regarding RCCI's application from the Canadian Network Operators Consortium Inc. (CNOCC); Distributel Communications Limited (Distributel); Iristel Inc. (Iristel); Quebecor Media Inc., on behalf of Videotron Ltd. (Videotron); and TELUS Communications Inc. (TCI).

Background

4. In Telecom Decision 97-8, the Commission set out interconnection rules, including the terms and conditions governing arrangements for interconnection between the networks of incumbent local exchange carriers (ILECs) and those of competitive local exchange carriers (CLECs). Noting that these networks would vary in both architecture and traffic characteristics, the Commission provided the carriers with the flexibility to negotiate certain terms and conditions of their interconnection arrangements.

¹ B & K trunks are facilities connecting the networks of two local exchange carriers (LECs) within the same exchange, the costs of which are shared in accordance with Telecom Decision 97-8. B & K is a process by which the originating LEC bills its end-customer for the telephone call and keeps the corresponding revenues.

² An IXC is a Canadian carrier, as defined in section 2 of the *Telecommunications Act*, that provides interexchange (IX) service. IX service refers to a service or a facility configured to operate between any two exchanges for which incumbent local exchange carriers would apply long distance charges, including an international service or facility.

³ Toll trunks are used in connection arrangements provided by LECs whereby traffic from the IXC's network can be routed for termination in the local public switched telephone network.

⁴ RCCI requested that Bell Canada be directed to deploy toll trunks in order to receive TF traffic originating with RCCI that is destined only for Bell Canada's TFTN customers; RCCI would continue to use its two-way B & K trunks to route RCCI-originating TF traffic that transits Bell Canada's network for termination with TFTN customers of IXCs that connect with Bell Canada (and not with RCCI).

5. Also in that decision, the Commission mandated the equal sharing of the costs of interconnecting trunks between local exchange carriers (LECs) that were providing service within a given ILEC's exchange. The Commission determined that the B & K approach would apply where traffic is interchanged and terminated within a given ILEC exchange, but that CLECs would assume the costs associated with traffic interchanged in one exchange but terminated in another. Additionally, the Commission concluded that in instances where it was demonstrated that traffic between LECs was not balanced for a significant period of time, mutual compensation would be implemented, and that the rate should be capped at the ILEC rate, which should be set to equal the mandated rate for essential facilities set out in that decision.
6. IXCs offer a variety of TFTN services in which the called party pays for the calls. When a customer makes a call using one of these services, a LEC must route the call to the appropriate IXC. At the time of the proceeding that led to Telecom Decision 97-8, calls placed to TF numbers were all received by an ILEC, which queried a database to identify and route the call to the IXC providing the TFTN service.
7. In Telecom Decision 97-8, the Commission considered that until other arrangements were made, the only way to route TF calls to the appropriate service provider was through a member company of the Stentor Resource Centre Inc. (i.e. an ILEC) that had access to the TF service control point (SCP) where the database was located.⁵ The Commission directed the Stentor member companies to file proposed tariffs, with supporting cost information, to provide for the routing of TF calls by the ILECs.
8. In a May 2001 consensus report to the Commission entitled *Network to Network Interface for Toll Free Connection* (NTRE010), which the Commission approved in Decision 2001-640, the CISC Network Working Group (NTWG) specified the requirement for interfaces between ILECs and IXCs for TF service. In its report, the NTWG stated that the responsibility to perform carrier identification in TF service resided with the originating LEC.

Issues

9. The Commission has identified the following issues to be addressed in this decision:
 - Is Bell Canada conferring upon itself an undue or unreasonable preference, in contravention of subsection 27(2) of the *Telecommunications Act* (the Act)?⁶

⁵ The Stentor member companies were BC Tel; Bell Canada; The Island Telephone Company; MTS NetCom Inc.; Maritime Tel & Tel Limited; The New Brunswick Telephone Company, Limited; NewTel Communications Inc.; and TCI.

⁶ Subsection 27(2) of the Act states the following: No Canadian carrier shall, in relation to the provision of a telecommunications service or the charging of a rate for it, unjustly discriminate or give an undue or unreasonable preference toward any person, including itself, or subject any person to an undue or unreasonable disadvantage.

- Should the Commission direct Bell Canada to deploy one-way toll trunks to connect to RCCI's switches for the routing of RCCI-originating TF traffic to Bell Canada's TFTN customers?
- Should the Commission allow RCCI to start billing Bell Canada, retroactive to 1 April 2019, for all TF-related charges and minutes for traffic originating with RCCI and destined for Bell Canada's TFTN customers?

Is Bell Canada conferring upon itself an undue or unreasonable preference, in contravention of subsection 27(2) of the Act?

Positions of parties

RCCI

10. RCCI submitted that from the time it commenced operating as a CLEC, it has been routing one-way TF calls originating with RCCI and destined for Bell Canada's TFTN customers over RCCI's two-way B & K trunks. This arrangement was developed because at that time, Bell Canada was the only carrier within RCCI's CLEC serving area that had a TFTN database.⁷
11. Since 2018, RCCI has had access to its own TFTN database, meaning that it can now query all TF calls that originate from its customers in order to find the proper Carrier Identification Code and the terminating 10-digit numbers. With this information, RCCI can route the TF calls directly to the proper IXCs, including Bell Canada.⁸
12. RCCI submitted that since deploying its own TFTN database, it has approached certain IXCs, including Bell Canada, to discuss changes to how TF traffic is exchanged. It advised Bell Canada that now that RCCI has the capability to query its own TFTN database, one-way traffic that is destined for Bell Canada's TFTN customers should no longer be routed over RCCI's two-way B & K trunks. Instead, Bell Canada (as an IXC) should do as RCCI (as an IXC) has done, i.e. deploy one-way toll trunks to RCCI's switches. RCCI proposed that Bell Canada pay it the per-minute rate and RCCI's 800/888 Carrier Identification Charge.⁹ RCCI submitted that this would be a more equitable arrangement, but that it was unable to resolve its traffic routing issue with Bell Canada through negotiations.
13. RCCI submitted that, as ruled by the Commission on several occasions, the responsibility to perform carrier identification with respect to TF services resides with the originating LEC. RCCI submitted that the Commission wished to ensure that proper compensation was made to those performing a necessary function, namely properly completing TF calls.

⁷ A TFTN database is used to correctly route TF calls to the IXCs providing the TF services.

⁸ Bell Canada can be both an ILEC and an IXC that owns TFTNs.

⁹ RCCI submitted that, should Bell Canada decide to interconnect directly at RCCI's toll switches, RCCI would apply its per-minute Switching and Aggregation charge.

14. RCCI submitted that Bell Canada being an ILEC and an IXC in its ILEC operating territories has resulted in situations that are clearly unfair and unsustainable. RCCI submitted that regardless of Bell Canada's role in a TF call, whether as an ILEC, an IXC, or a database administrator, the company is paid for each TF call. At the same time, every other type of carrier, even when performing the exact same TFTN database querying (also known as "dipping") and routing functions as Bell Canada in other instances, is required to pay Bell Canada. RCCI submitted that Bell Canada is being paid on both sides of the equation and is therefore giving itself an undue preference.
15. RCCI described two scenarios to support its arguments. In the first scenario, when its residential customers dial Bell Canada's TFTNs, RCCI routes the calls over its own two-way B & K trunks to Bell Canada. RCCI submitted that this creates a traffic imbalance in Bell Canada's favour, resulting in RCCI compensating Bell Canada.
16. In the second scenario, when Bell Canada's customers dial RCCI's TFTNs, Bell Canada refuses to route this traffic over its two-way B & K trunks. Instead, Bell Canada forces RCCI to deploy one-way toll trunks to Bell Canada's access tandems. Therefore, RCCI is paying Bell Canada's Access Tandem Connection charge of \$0.0011 per minute plus its Direct Connection charge of \$0.00088 per minute (which together form Bell Canada's Switching and Aggregation charge), as well as Bell Canada's 800/888 Carrier Identification Charge of \$0.0024 per TF call.
17. RCCI submitted that for outbound (RCCI to Bell Canada) and inbound (Bell Canada to RCCI) TF traffic, Bell Canada is insisting on two distinct routing arrangements, depending upon where the traffic originates. This is beneficial to Bell Canada, since the company is paid by RCCI for RCCI's outbound TF traffic destined for Bell Canada's TFTN customers, as well as for Bell Canada's TF traffic destined for RCCI's TFTN customers. RCCI argued that this is clearly unjust.
18. RCCI submitted that there is no rational justification for these one-sided arrangements. This situation may have been appropriate when RCCI relied upon Bell Canada's TFTN database to properly route RCCI's TF calls. However, now that RCCI has access to its own TFTN database, it can query all TF calls that originate from its customers, enabling the company to route the calls directly to IXCs on its own.
19. RCCI submitted that to stop the undue preference that Bell Canada is conferring upon itself, every LEC and IXC should be treated the same and interconnect in a similar way. RCCI submitted that there is no justification for Bell Canada to force it to route TF traffic destined for Bell Canada's TFTN customers over RCCI's two-way B & K trunks. The Commission should therefore mandate Bell Canada to (i) deploy toll trunks to RCCI's switches; and (ii) pay RCCI to receive its TF traffic from RCCI, in the same way that RCCI pays to receive its TF traffic from Bell Canada.

Bell Canada

20. Bell Canada opposed all of the relief requested by RCCI. It submitted that RCCI's introduction of an optional TFTN database service, as an alternative to that provided by Bell Canada, did not trigger an obligation for industry providers to reorganize their TF traffic routing arrangements or to use RCCI's TFTN database service.
21. Bell Canada submitted that there is nothing inequitable or discriminatory in the existing TF traffic routing regime. It argued that while RCCI claimed that the existing regime is inequitable because it is anchored around the ILECs, RCCI made no claim that Bell Canada's current handling of TF calls represents an undue preference or unjust discrimination under subsection 27(2) of the Act. Bell Canada submitted that RCCI's discussion of applicable Commission decisions implicitly acknowledges that Bell Canada's current implementation of TF traffic routing is consistent with Commission requirements that have been in place for two decades.
22. Bell Canada submitted that it does not provide itself, as an IXC, with preferential treatment relative to the other IXCs connected directly to it, adding that its routing of incoming TF calls from RCCI to Bell Canada (as an IXC) is exactly the same as for TF calls destined for all the other IXCs that have chosen not to connect directly with RCCI. Bell Canada submitted that rather, it is RCCI's proposal to compel Bell Canada (as an IXC) and Bell Canada alone to connect directly to RCCI that is unfair.
23. Bell Canada submitted that there was no indication in RCCI's tariff notice relating to the introduction of its TFTN database service that interconnection as an IXC with RCCI would become a requirement.¹⁰ Instead, the proposed language, as approved by the Commission in Telecom Order 2018-323, simply states the following: "An interconnecting circuit with trunk-side access may be arranged to provide for the routing of 800/888 calls destined for the IXSP's network."¹¹ The Commission did not receive any interventions regarding the tariff notice, which Bell Canada submitted is not surprising, since at no point prior to submitting the tariff notice did RCCI indicate that its new service created obligations on other industry participants.
24. Bell Canada submitted that it had made clear during its negotiations with RCCI that it did not believe that the launch of RCCI's TFTN database service created any regulatory obligations and that, accordingly, a reconfiguration of Bell Canada's toll trunks could reflect only a negotiated solution agreed upon by both parties. However, RCCI has not provided Bell Canada with a compelling commercial proposal; thus, no arrangement has been reached.

¹⁰ RCCI Tariff Notice 58, 10 July 2018

¹¹ An IXSP (interexchange service provider) is an IXC or an IX reseller.

Intervenors

25. CNOC submitted that Bell Canada's insistence that RCCI abide by non-reciprocal routing arrangements that have no technical or regulatory justification, and that benefit Bell Canada, is clearly an instance of Bell Canada granting itself undue preference. CNOC argued that approval of RCCI's requested relief would advance competition in the provision of voice services. Specifically, RCCI's new TFTN database service would provide competitive alternatives to other carriers that no longer need to rely upon Bell Canada to access that service in Bell Canada's ILEC operating territories. CNOC also submitted that approval of RCCI's requested relief would ensure fair TF traffic routing arrangements for other competitors that deploy TFTN databases. CNOC added that the ability of carriers to route calls to RCCI, and of RCCI to offer competitive rates for TFTN database querying service, should not be undermined by Bell Canada's attempts to bind RCCI to non-reciprocal traffic routing arrangements.
26. Distributel submitted that, in cases where two LECs have similar operations and capabilities, the default arrangement should be for traffic to be routed in a reciprocal manner. Distributel submitted that the deployment of TFTN databases by CLECs will provide CLECs that do not have their own such databases with a choice of LECs from which to obtain TFTN database querying services, so that they may determine the proper routing of the TF traffic they originate.
27. Distributel submitted that the deployment of TFTN databases by a CLEC may create opportunities for stand-alone IXCs to directly interconnect at the toll switch of that CLEC to receive the TF traffic originated by the CLEC (as well as any TF traffic destined for the stand-alone IXC that is originated by other CLECs that are using that CLEC's TFTN database querying service). This potential benefit to stand-alone IXCs is premised on the existence of a sufficient level of TF traffic destined for the stand-alone IXC and originated by the CLEC with the TFTN database or by other CLECs that are using its TFTN database querying service. Distributel submitted that if such a level of TF traffic destined for the IXC does not exist, direct interconnection with the CLEC that has deployed a TFTN database will not benefit the stand-alone IXC.
28. Distributel submitted that all CLECs that deploy a TFTN database and offer direct interconnection at their toll switches for stand-alone IXCs to receive CLEC-originated TF traffic should be bound by the requirement that, if a stand-alone IXC does not wish to establish direct interconnection at a CLEC's toll switches to receive this traffic, the CLEC will continue to route it through the ILEC to the IXC, via the toll trunks the IXC has deployed to connect with the ILEC's network. As such, the ILEC should continue to operate as the default transiting carrier for TF traffic, unless other arrangements are made.
29. Iristel submitted that Bell Canada is granting itself an undue preference by refusing to accept a reciprocal agreement with RCCI. Iristel submitted that in the case where a CLEC no longer needs to rely on the ILEC for carrier identification, any arrangement between that CLEC and that ILEC should be reciprocal with regard to TF traffic and

payments related to the traffic. Iristel also submitted that the Commission granting the relief requested by RCCI would further the policy objectives set out in paragraphs 7(c) and 7(f)¹² of the Act. Iristel urged the Commission to grant the requested relief and affirm that any CLEC that no longer requires the ILEC to provide carrier identification services for TF traffic should be entitled to a reciprocal routing arrangement with the ILEC, with a payment scheme that reflects this arrangement.

30. Videotron supported RCCI's request for relief. It submitted that, taking into consideration that RCCI has implemented the same features as Bell Canada to identify the Carrier Identification Code¹³ on calls made from its network to TFTNs, RCCI should be able to benefit from the same routing efficiencies as Bell Canada. In other words, RCCI should be able to route TF traffic to IXCs via the IXC's toll trunks, including when Bell Canada is the IXC.
31. Videotron added that, by approving RCCI's application, the Commission would foster the positive emergence of a competitive TF traffic routing service market. LECs that have chosen not to implement the feature that enables them to consult the TFTN database on their own would have the choice of several providers with which they can interconnect, which would be responsible for consulting the TFTN database and routing incoming CLEC calls on their behalf.
32. TCI supported, in principle, RCCI's position that a CLEC that can perform its own TF carrier identification should not have to pay other carriers to perform this function for them. TCI argued that it is reasonable for RCCI to expect that it should no longer have to route its TF traffic to Bell Canada, since this arrangement was established to account for the inability of CLECs to perform TF carrier identification. TCI submitted that it is also reasonable for ILECs to expect that, as a result of CLECs acquiring this capability, ILECs should no longer be required to perform this function on behalf of CLECs. TCI submitted, however, that Bell Canada is not conferring upon itself an undue preference by providing TF traffic routing – it is not violating the Act by providing a mandated service precisely as it was set out by the Commission, regardless of the rates, terms, and conditions of the service.

RCCI's reply

33. RCCI replied that Bell Canada's comments overlooked the main problem, which is that Bell Canada is forcing RCCI to route its TF calls over its B & K trunks that terminate at Bell Canada's TFTNs, which creates a traffic imbalance in Bell Canada's favour. In the reverse scenario, Bell Canada refuses to use its B & K trunks to connect

¹² The cited policy objectives are 7(c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications; and 7(f) to foster the increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective.

¹³ The Carrier Identification Code enables the routing and billing of telecommunications traffic from the local access service providers to specific interexchange and other service providers within the North American Numbering Plan telecommunications network.

with RCCI to terminate its TF calls that are destined for RCCI's TFTN customers. Instead, RCCI has to deploy toll trunks to receive its traffic from Bell Canada.

34. RCCI disagreed with Bell Canada's submission that RCCI wants to force Bell Canada (and only Bell Canada) to deploy toll trunks to RCCI's switches. RCCI submitted that the main difference between Bell Canada and other IXCs is that RCCI does not have B & K trunks with other IXCs; therefore, there are no unfair situations involving other IXCs.
35. RCCI added that toll direct interconnections with other IXCs will happen naturally because IXCs will save money by interconnecting directly with RCCI. The IXCs will pay only RCCI's approved Direct Connection charge to receive their TF traffic, instead of the Direct Connection charge plus the Access Tandem Connection charge (which together form RCCI's Switching and Aggregation charge) if their traffic is delivered by Bell Canada. RCCI submitted that if an IXC does not have enough traffic to warrant direct interconnections with RCCI, the option is available to continue transiting through the ILECs. RCCI estimated that under normal circumstances, there is enough traffic from RCCI's customers destined for Bell Canada's TFTN customers to warrant Bell Canada (as an IXC) to interconnect directly with RCCI.
36. RCCI submitted that Telecom Order 98-486 clearly states that toll originating traffic should be routed from CLECs over distinct toll trunks to the ILECs, at the expense of the IXCs. RCCI submitted that the routing requirements described in that order fully support its application, adding that RCCI-originated TF traffic destined for Bell Canada's TFTN customers should not be routed over two-way B & K trunks (resulting in shared costs) but rather over one-way toll trunks paid for by the IXCs.
37. RCCI submitted that it has no issue with Bell Canada not using RCCI's 800/888 Carrier Identification service; likewise, RCCI does not need to use Bell Canada's equivalent service anymore, given that RCCI now has a TFTN database. RCCI argued that it is aware that IXCs are not mandated to interconnect with LECs, and that it simply wants symmetrical treatment.
38. RCCI submitted that if Bell Canada does not want to deploy toll trunks to RCCI's switches in order to receive TF traffic, RCCI would remove all of its toll trunks with Bell Canada, in which case the Commission should mandate Bell Canada to route all of its TF traffic destined for RCCI's TFTN customers over Bell Canada's B & K trunks; only then would RCCI have a fully symmetrical arrangement with Bell Canada.
39. RCCI disagreed with TCI that Bell Canada is not conferring an undue preference upon itself, submitting that now that RCCI has the ability to perform its own TF carrier identification, Bell Canada is creating an undue preference by its unwillingness to negotiate with RCCI an alternative routing arrangement. RCCI submitted that it has the same TFTN look-up functionalities as Bell Canada, so the routing scheme for TF calls should be a reciprocal arrangement between both parties.

Commission's analysis and determinations

Assessment of undue or unreasonable preference

40. Subsections 27(2) and 27(4) of the Act read as follows:

27(2) No Canadian carrier shall, in relation to the provision of a telecommunications service or the charging of a rate for it, unjustly discriminate or give an undue preference or unreasonable preference toward any person, including itself, or subject any person to an undue or unreasonable disadvantage.

27(4) The burden of establishing before the Commission that any discrimination is not unjust or that any preference or disadvantage is not undue or unreasonable is on the Canadian carrier that discriminates, gives the preference or subjects the person to the disadvantage.

41. To determine whether there is an undue or unreasonable preference, the Commission must first determine whether there is a preference.
42. Under its current network interconnection arrangement with Bell Canada, RCCI is being denied revenues that it would otherwise receive from Bell Canada for identifying (by accessing a database directly, instead of relying on Bell Canada to perform this function) and routing to Bell Canada TF traffic destined for Bell Canada's TFTN customers,¹⁴ due to Bell Canada's refusal to deploy toll trunks to RCCI's switches to receive this traffic. Additionally, Bell Canada is continuing to charge RCCI for the traffic imbalance created by requiring RCCI to continue using its own two-way B & K trunks to route TF traffic destined for Bell Canada's TFTN customers, charges that RCCI would not incur were Bell Canada to agree to deploy its own one-way toll trunks to RCCI's switches to receive this traffic.
43. In light of the above, the Commission finds that Bell Canada, by requiring RCCI to continue to abide by the existing asymmetric TF call routing arrangement between the two parties, despite RCCI now possessing the ability to perform its own TFTN database queries, is conferring a preference upon itself and is subjecting RCCI to a corresponding disadvantage.
44. At the time that the Commission's policies regarding network arrangements between ILECs and CLECs for the routing of TF calls were established pursuant to Telecom Decision 97-8, only ILECs possessed or otherwise had direct access to TFTN databases. As set out in Telecom Decision 97-8, ILECs bear the responsibility and expense associated with operating these databases, and for correctly identifying and properly routing all TF traffic travelling over their networks, including all TF traffic originating with CLECs and other IXSPs. Therefore, it was appropriate at the time for ILECs to be compensated for all the TF traffic they routed over their networks, regardless of the direction of the traffic flow.

¹⁴ This finding is based on information that RCCI provided to the Commission in confidence.

45. The Commission also specified in Telecom Decision 97-8 that its determinations regarding the routing of TF traffic between ILECs and CLECs would apply in the absence of “other arrangements,” without specifying what those would or could be. No Commission ruling has since been made regarding such other arrangements, including alternative network interconnection (and by extension, billing) arrangements between ILECs and CLECs specifically for the routing of TF traffic.
46. Therefore, until a CLEC acquired direct access to a TFTN database and could conduct the carrier identification and routing functions for all traffic originating with that CLEC, the Commission’s existing policy regarding network arrangements for the routing of TF calls remained appropriate.
47. In light of the above, the Commission finds that Bell Canada has demonstrated that its current TF routing arrangements with RCCI comply fully with the policy framework set out in Telecom Decision 97-8 and with Bell Canada’s Commission-approved tariff. Accordingly, the Commission finds that the preference conferred by Bell Canada upon itself is not undue.

Should the Commission direct Bell Canada to deploy one-way toll trunks to connect to RCCI’s switches for the routing of RCCI-originating TF traffic to Bell Canada’s TFTN customers?

Commission’s analysis and determinations

48. Since the release of Telecom Decision 97-8, the Canadian telecommunications market has become increasingly competitive. The Commission considers that RCCI’s acquisition of the ability to directly query a TFTN database to identify and route TF traffic originating within its network and destined for an IXC represents a material change in circumstances that allows for the establishment of other arrangements as contemplated in Telecom Decision 97-8.
49. Given these changes, the Commission considers that the continued application of its existing policies regarding network structure and billing arrangements between RCCI and Bell Canada no longer serves to further the policy objectives set out in paragraphs 7(c) and 7(f) of the Act – that is, these arrangements no longer serve to enhance the efficiency and competitiveness of Canadian telecommunications, nor do they ensure that regulation is efficient and effective. Furthermore, subparagraph 1(b)(iv) of the 2006 Policy Direction¹⁵ requires that network interconnection arrangements ensure competitive neutrality and do not artificially favour Canadian carriers. In the Commission’s view, allowing Bell Canada to maintain these arrangements would run contrary to this requirement in that it would unnecessarily maintain a competitive advantage for Bell Canada over RCCI.

¹⁵ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, SOR/2006-355, 14 December 2006

50. The Commission therefore considers that the network interconnection arrangement and, by extension, the compensation arrangement, for routing TF traffic between the companies should be symmetrical, i.e. both parties should use the same type of trunk to receive and terminate TF traffic from the originating party.
51. On the basis of the record of this proceeding, the Commission is of the view that RCCI and Bell Canada are unlikely to reach an agreement regarding a revised arrangement for the routing of TF traffic between the two parties.
52. Accordingly, pursuant to sections 24 and 40 of the Act,¹⁶ the Commission **directs** Bell Canada, as a condition of providing its Routing of CLEC 800/888 Calls service, to deploy one-way toll trunks to connect to RCCI's switches to receive all RCCI-originating TF traffic destined for Bell Canada's TFTN customers. These toll trunks are to be deployed in the Bell Canada operating territories in which RCCI also provides service, and are to be deployed within **150 days** of the date of this decision.
53. The Commission also **directs** Bell Canada to file with the Commission, at least **30 days** prior to completing the deployment of the toll trunks, proposed revised tariff pages indicating that Bell Canada will receive RCCI-originating TF traffic destined for Bell Canada's TFTN customers over the toll trunks deployed to RCCI's switches. The Commission considers that these tariff modifications are required, in light of the finding of a material change in circumstances, to ensure that rates are just and reasonable, consistent with subsection 27(1) of the Act.¹⁷

Should the Commission allow RCCI to start billing Bell Canada, retroactive to 1 April 2019, for all TF-related charges and minutes for traffic originating with RCCI and destined for Bell Canada's TFTN customers?

Positions of parties

54. RCCI submitted that, since it queries its own TFTN database for all calls that are destined for Bell Canada's TFTN customers, RCCI is entitled to invoice Bell Canada for the 800/888 Carrier Identification Charge, as per RCCI's tariff. RCCI submitted that the charges should be applied as of 1 April 2019, and that pending the actual installation of toll trunks to replace the existing B & K trunks, RCCI should be entitled to invoice Bell Canada for all TF-related charges listed in RCCI's tariff. RCCI submitted that Bell Canada cannot arbitrarily and unilaterally avoid these Commission-approved charges. RCCI submitted that it is required to pay Bell Canada

¹⁶ Section 24 of the Act states the following: The offering and provision of any telecommunications service by a Canadian carrier are subject to any conditions imposed by the Commission or included in a tariff approved by the Commission. Section 40 of the Act states the following: The Commission may order a Canadian carrier to connect any of the carrier's telecommunications facilities to any other telecommunications facilities.

¹⁷ Subsection 27(1) of the Act states the following: Every rate charged by a Canadian carrier for a telecommunications service shall be just and reasonable.

this type of fee under the same circumstances; therefore, Bell Canada should be required to pay it as well.

55. RCCI submitted that Bell Canada should not benefit from its failure to conclude a new interconnection agreement with respect to toll trunks. RCCI submitted that while traffic may continue to flow over B & K trunks, pending the Commission's decision on this matter RCCI should be appropriately compensated for delivering Bell Canada's TF traffic.
56. Bell Canada questioned whether the Commission has the jurisdiction to grant RCCI's retroactive billing request, in essence forcing Bell Canada to pay for a service it has never used. Bell Canada also submitted that retroactivity is a regulatory exception, which the Supreme Court of Canada has limited to cases where rates were set on an interim basis. Bell Canada submitted that there is nothing interim, rates or otherwise, in the context of RCCI's application. Bell Canada submitted that it is fully compliant with the existing TFTN regime, whose components have all been approved on a final basis.
57. Bell Canada also questioned whether the Commission has the jurisdiction to direct it to compensate RCCI for the use of RCCI's TFTN database. Bell Canada submitted that RCCI failed to identify under what power the Commission would be acting. Bell Canada further submitted that RCCI's application does not allege that Bell Canada has violated section 27 of the Act; however, even if that section were argued, the Commission does not have the ability to order monetary awards for violations of section 27.
58. Bell Canada added that RCCI provided no explanation as to why it should be billed retroactively to 1 April 2019. Bell Canada submitted that the choice of that date appears arbitrary, since RCCI's new TFTN database service was approved by the Commission in August 2018 (although, Bell Canada argued, billing from August 2018 is no more appropriate than billing from 1 April 2019).
59. Bell Canada submitted that RCCI is welcome to attract business for TF services from IXCs that believe that RCCI's new TFTN database service will provide them with commercial benefits. However, Bell Canada fundamentally disagreed that RCCI, under the existing rules, can compel other industry participants, namely Bell Canada, to make use of the new service and force new interconnection arrangements, even when, as in Bell Canada's case, a provider has no need for it. Bell Canada submitted that the launch of the service does not entitle RCCI to some form of TF revenue sharing or redistribution in the name of equity.
60. RCCI replied that, contrary to Bell Canada's contention, it did not request that the Commission make a retroactive order; RCCI agreed with Bell Canada that there are no interim rates that would justify such an order. However, there are final rates in RCCI's and Fido Solutions Inc.'s tariffs, which the Commission approved on 27 August 2018 in Telecom Order 2018-323. RCCI submitted that its tariff should

apply to Bell Canada whenever Bell Canada receives TF calls that originate on RCCI's network.

61. In reply to Bell Canada's submission that the 1 April 2019 billing date seems arbitrary, RCCI submitted that while it could have requested payments back to August 2018, it decided to give Bell Canada a reasonable amount of time to build the requested toll trunks. RCCI submitted that it tried to negotiate with Bell Canada, and only after Bell Canada continued to refuse to negotiate did RCCI decide to seek relief from the Commission.
62. RCCI submitted that if Bell Canada decides to dispute the invoices, RCCI would similarly refuse to pay Bell Canada's invoices for the same period.

Commission's analysis and determinations

63. The Commission considers that, since Bell Canada did not have one-way toll trunks deployed to RCCI's switches to receive RCCI-originating TF traffic destined for Bell Canada's TFTN customers as of 1 April 2019, it would not be appropriate for RCCI to invoice Bell Canada starting on that date, or on any other date during which Bell Canada did not or does not have such toll trunks deployed to RCCI's switches.
64. Accordingly, the Commission **denies** RCCI's request for it to start billing Bell Canada, as of 1 April 2019, for all TF-related charges and minutes associated with TF traffic originating with RCCI and destined for Bell Canada's TFTN customers.
65. The Commission determines that it would be appropriate for RCCI to begin charging Bell Canada for the traffic in question on the date that Bell Canada completes the deployment of the one-way toll trunks to connect to RCCI's switches.

Policy Directions

66. The Commission is required, in exercising its powers and performing its duties under the Act, to implement the policy objectives set out in section 7 of the Act, in accordance with the 2006 Policy Direction and the 2019 Policy Direction¹⁸ (collectively, the Policy Directions). The Commission considers that its determinations in this decision are in accordance with the Policy Directions for the reasons set out below.
67. In compliance with subparagraph 1(a)(i) of the 2019 Policy Direction, the Commission considers that the regulatory measure set out above – specifically, the direction to Bell Canada to deploy one-way toll trunks to connect to RCCI's switches

¹⁸ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives to Promote Competition, Affordability, Consumer Interests and Innovation*, SOR/2019-227, 17 June 2019

– encourages all forms of competition and investment by advancing the policy objective set out in paragraph 7(c) of the Act.

68. In compliance with subparagraph 1(a)(ii) of the 2019 Policy Direction, the Commission considers that its direction to Bell Canada to deploy toll trunks to connect to RCCI's switches promotes consumer interests by fostering affordability and lower prices with respect to the provision of TFTN database query and TF routing services to TSPs, which may translate into benefits flowing through to customers, and with respect to the provision of TFTN service to end-customers.
69. In addition, the Commission considers that its direction to Bell Canada to deploy toll trunks to connect to RCCI's switches is consistent with the 2006 Policy Direction – specifically, subparagraph 1(b)(iii), which requires that regulatory measures of a non-economic nature, to the greatest extent possible, be implemented in a symmetrical and competitively neutral manner; and subparagraph 1(b)(iv), which requires that regulatory measures that relate to network interconnection arrangements ensure competitive neutrality and do not artificially favour Canadian carriers.

Secretary General

Related documents

- Telecom Order CRTC 2018-323, 27 August 2018
- *Telecom Decision CRTC 97-8, Local competition, 1 May 1997: Follow-Up Process – CRTC Interconnection Steering Committee consensus items*, Decision CRTC 2001-640, 10 October 2001
- Telecom Order CRTC 98-1190, 30 November 1998
- *Transiting and points of interconnection*, Telecom Order CRTC 98-486, 19 May 1998
- *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997