



Telecom Decision CRTC 2021-192

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Ottawa, 4 June 2021

Public record: 8638-S1-01/98

Forbearance from the regulation of high-capacity / digital data services interexchange private line services on certain additional routes

The Commission forbears from regulating high-capacity / digital data services interexchange private line services on two routes.

Introduction

1. In Telecom Decision 97-20, pursuant to section 34 of the *Telecommunications Act* (the Act) and in accordance with the framework set out in Telecom Decision 94-19, the Commission forbore in large part from regulating the high-capacity / digital data services interexchange private line (IXPL) services (IXPL services) provided by the former Stentor-member companies¹ on certain routes. The Commission expanded the scope of forbearance for forborne IXPL services provided by TELUS Communications Inc. (TCI) in Telecom Decision 2003-77, and for those provided by Aliant Telecom Inc. (now Bell Aliant, a division of Bell Canada), Bell Canada, MTS Allstream Inc. (now Bell MTS, a division of Bell Canada, and Allstream Business Inc.), and Saskatchewan Telecommunications (SaskTel) in Telecom Decision 2004-80.
2. Also in Telecom Decision 97-20, the Commission proposed for comment the following criterion for forbearance from the regulation of IXPL services on future routes: that competitors provided or offered IXPL services to at least one customer, at the equivalent of DS-3 or greater bandwidth, using terrestrial facilities from a company other than the incumbent local exchange carrier (ILEC) or an affiliate of the ILEC.
3. In Telecom Order 99-434, the Commission confirmed the criterion proposed in Telecom Decision 97-20, and directed the competitors of several ILECs to file semi-annual reports identifying all the IXPL routes for which they provide or offer IXPL services that meet the criterion.² The reports are due on 1 April and 1 October each year.

¹ The Stentor-member companies consisted of BC TEL; Bell Canada; The Island Telephone Company Limited; MTS NetCom Inc.; Maritime Tel & Tel Limited; The New Brunswick Telephone Company, Limited; NewTel Communications Inc.; and TELUS Communications Inc.

² In Telecom Order 99-905, the Commission extended the IXPL forbearance process of Telecom Order 99-434 to Québec-Téléphone, now part of TCI, and to Télébec Itée, now Télébec, Limited Partnership.

4. Also in that order, the Commission stated that upon being satisfied that one or more competitors met this criterion, it would proceed to forbear from the regulation of IXPL services on those particular routes without further process.
5. In April 2021, the Commission received filings from the following competitors: Axia SuperNet Ltd.; Bell Canada; Bragg Communications Incorporated, carrying on business as Eastlink, on behalf of its direct and indirect subsidiaries; Hydro One Telecom Inc.; Manitoba Hydro International Ltd.; Ontera, a division of NorthernTel, Limited Partnership; Quebecor Media Inc., on behalf of Videotron Ltd.; Rogers Communications Canada Inc.; SaskTel; Shaw Telecom G.P.; TBayTel; TCI; and Zayo Canada Inc.
6. In this decision, the Commission addresses the IXPL reports filed in April 2021.

Commission's analysis and determinations

7. The Commission has reviewed the competitors' reports filed pursuant to Telecom Order 99-434 and finds that the above-noted forbearance criterion is met for two routes, which are in territories served by Bell Canada. These additional routes are listed in the Appendix to this decision.
8. Pursuant to subsection 34(1) of the Act, the Commission finds that to refrain, to the extent specified in this decision, from exercising its powers and performing its duties in relation to the regulation of IXPL services on the routes listed in the Appendix would be consistent with the policy objectives set out in section 7 of the Act.
9. Pursuant to subsection 34(2) of the Act, the Commission finds that the IXPL services on the routes listed in the Appendix are subject to a level of competition sufficient to protect the interests of users of these services, and that it is therefore appropriate to refrain, to the extent specified in this decision, from regulating the IXPL services provided on these routes.
10. Pursuant to subsection 34(3) of the Act, the Commission finds that to refrain, to the extent specified in this decision, from regulating the IXPL services on the routes listed in the Appendix would be unlikely to unduly impair the continuance of a competitive market for these services.
11. In light of the above and pursuant to subsection 34(4) of the Act, the Commission declares that the following sections of the Act, with some exceptions as noted, do not apply to the affected ILECs' IXPL services on the routes identified in the Appendix:
 - section 24, except that the Commission **directs** the ILECs whose territories include one or more of the IXPL routes listed in the Appendix (the affected ILECs) to incorporate into all contracts and any other arrangements for the IXPL services forborne from regulation in this decision, where appropriate and on a going-forward basis, the existing conditions regarding the disclosure of confidential customer information to third parties. It is also appropriate for the Commission to retain sufficient powers under section 24 of the Act to specify possible future conditions upon the forborne services provided by the affected ILECs, where circumstances warrant;

- section 25;
- section 27, except with respect to subsection 27(3) of the Act in relation to compliance with powers and duties not forborne from in this decision;
- section 29; and
- section 31.

12. The Commission **directs** the affected ILECs to issue, within **30 days** of the date of this decision, revised tariff pages removing the tariffs for the IXPL services on the routes identified in the Appendix, effective on the date of issuance of the tariff pages.³

Policy Directions

13. The 2019 Policy Direction⁴ provides that when the Commission is exercising its powers and performing its duties under the Act, it should consider how its decisions can promote competition, affordability, consumer interests, and innovation.

14. The Commission considers that its forbearance from the regulation of IXPL services in this decision is consistent with subparagraphs 1(a)(i) and (ii) of the 2019 Policy Direction, which state that the Commission should consider the extent to which its decisions

- i. encourage all forms of competition and investment; and
- ii. foster affordability and lower prices, particularly when telecommunications service providers exercise market power.

15. In particular, the Commission considers that its determination to forbear from the regulation of IXPL services (i) will enable competitive conditions for offering IXPL services on these specific routes that will protect the interest of users and (ii) will promote access to affordable, high-quality telecommunications services.

16. In light of the above, the Commission considers that its forbearance determination will promote competition, affordability, and consumer interests.

17. In addition, consistent with subparagraph 1(b)(i) of the 2006 Policy Direction,⁵ the Commission considers that its determination to forbear from the regulation of IXPL services in this decision serve to advance the policy objectives set out in paragraphs 7(b), (c), and (f) of the Act.⁶

³ Revised tariff pages can be submitted to the Commission without a description page or a request for approval; a tariff application is not required.

⁴ *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.

⁵ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, SOR/2006-355, 14 December 2006.

⁶ The cited policy objectives of the Act are: 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; (c) to

Secretary General

Related documents

- *Aliant Telecom, Bell Canada, MTS Allstream and SaskTel – Forbearance from section 29 of the Act for agreements related to forborne domestic toll services and forborne interexchange private line services*, Telecom Decision CRTC 2004-80, 9 December 2004
- *TELUS' application for forbearance from section 29 of the Telecommunications Act with respect to forborne interexchange private line and long distance services*, Telecom Decision CRTC 2003-77, 19 November 2003
- Telecom Order CRTC 99-905, 17 September 1999
- *Follow-up Proceeding to Telecom Decision CRTC 97-20: Establishment of criterion and process for considering further forbearance for High Capacity/DDS interexchange private line services*, Telecom Order CRTC 99-434, 12 May 1999
- *Stentor Resource Centre Inc. – Forbearance from regulation of interexchange private line services*, Telecom Decision CRTC 97-20, 18 December 1997
- *Review of regulatory framework*, Telecom Decision CRTC 94-19, 16 September 1994

enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications; and (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.

Appendix to Telecom Decision CRTC 2021-192

Additional IXPL routes that qualify for forbearance based on the April 2021 reports from competitors, pursuant to Telecom Order 99-434

ILEC A	Exchange A		ILEC B	Exchange B	
Bell Canada	Orillia	ON	Bell Canada	London	ON
Bell Canada	Barrie	ON	Bell Canada	Pickering	ON