



## Telecom Decision CRTC 2022-194

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Ottawa, 21 July 2022

*Public record: 8638-S1-01/98*

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

#### **Summary**

The Commission forbears, with some conditions, from regulating high-capacity / digital data services interexchange private line services on five additional 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 companies<sup>1</sup> 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. In Telecom Order 99-434, the Commission directed the competitors of several incumbent local exchange carriers (ILECs) to file a semi-annual report identifying the IXPL routes on which the 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 ILEC or an affiliate of the ILEC.<sup>2</sup>
3. 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. The reports are due on 1 April and 1 October each year.

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<sup>1</sup> 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.

<sup>2</sup> 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. In April 2022, the Commission received filings from the following competitors: Acronym Solutions Inc.; Axia SuperNet Ltd.; Bell Canada; Bragg Communications Incorporated, carrying on business as Eastlink, on behalf of its direct and indirect subsidiaries; 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.

### **Commission's analysis**

5. 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 five additional routes, which are in territories served by Bell Canada and Bell MTS. These additional routes are listed in the Appendix.
6. Pursuant to subsection 34(1) of the Act, the Commission finds that to refrain from exercising its powers and performing its duties, to the extent specified in this decision, 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.
7. 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, to the extent specified in this decision, it is appropriate to refrain from regulating the IXPL services provided on these routes.
8. Pursuant to subsection 34(3) of the Act, the Commission finds that to refrain from regulating the IXPL services on the routes listed in the Appendix, to the extent specified in this decision, would be unlikely to unduly impair the continuance of a competitive market for these services.
9. 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.

10. The Commission **directs** the affected ILECs to issue, within **45 days** of the date of this decision, 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.<sup>3</sup>

### **Policy Direction**

11. The 2019 Policy Direction<sup>4</sup> 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. Moreover, in its decisions the Commission should demonstrate its compliance with the 2019 Policy Direction and specify how those decisions can, as applicable, promote competition, affordability, consumer interests, and innovation.
12. 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.
13. 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.
14. In light of the above, the Commission considers that its forbearance determination will promote competition, affordability, and consumer interests.

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

<sup>4</sup> *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

15. In addition, consistent with subparagraph 1(b)(i) of the 2006 Policy Direction,<sup>5</sup> 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.<sup>6</sup>

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

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

<sup>6</sup> The cited policy objectives 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 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 2022-194

Additional IXPL routes that qualify for forbearance based on the April 2022 reports from competitors, pursuant to Telecom Order 99-434

ILEC A	Exchange A	Exchange B	ILEC B
Bell Canada	Guelph ON	Barrie ON	Bell Canada
Bell Canada	Toronto ON	Jarvis ON	Bell Canada
Bell Canada	Cowansville QC	Granby QC	Bell Canada
Bell Canada	Cowansville QC	St-Luc QC	Bell Canada
Bell MTS	Winkler MB	Toronto ON	Bell Canada