



Telecom Order CRTC 2022-97

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Ottawa, 5 April 2022

Public record: Tariff Notice 59

Videotron Ltd. – Reintroduction of the aggregated Giga service and of the disaggregated Giga service and introduction of the aggregated 1.5 Giga service and of the disaggregated 1.5 Giga service

The Commission **approves on a final basis** the reintroduction by Videotron Ltd. (Videotron) of the aggregated wholesale third-party Internet access service “Download 501-1000 Mbps [megabits per second], Upload 0-100 Mbps.” The Commission **approves on an interim basis** the reintroduction of the disaggregated Giga service, as well as the introduction of the aggregated 1.5 Giga service “Download 1001-1500 Mbps, Upload 0-100 Mbps” and of the disaggregated 1.5 Giga service. The Commission also **orders** Videotron to submit to the Commission a cost study for the 1001 to 1500 Mbps download tier of the aggregated service within **60 days** of this order.

Application

1. The Commission received an application from Quebecor Media Inc., on behalf of Videotron Ltd. (Videotron), namely Tariff Notice (TN) 59, dated 3 November 2021, to (i) reintroduce aggregated and disaggregated wholesale third-party Internet access (TPIA) services “Download 501-1000 Mbps [megabits per second], Upload 0-100 Mbps” (aggregated Giga service) up to 940 Mbps download speeds and up to 50 Mbps upload speeds, and (ii) introduce the aggregated 1.5 Giga service “Download 1001-1500 Mbps, Upload 0-100 Mbps” (aggregated 1.5 Giga service) and of the disaggregated 1.5 Giga service (disaggregated 1.5 Giga service).
2. Videotron also submitted that, should the Commission approve the request for relief from Shaw Cablesystems G.P. and Shaw Telecom G.P. (collectively, Shaw),¹ Videotron wishes to reserve the right to remove the Giga and 1.5 Giga services from its TPIA tariff.

¹ On 27 May 2020, Shaw filed a motion under Part 1 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*, in which it requested that the Commission not apply its equivalent speed rule to Shaw’s access services with speeds of 1 gigabit per second (Gbps) and higher. In particular, Shaw argued that there is a regulatory asymmetry between the treatment of cable carriers (whose Data Over Cable Service Interface Specification [DOCSIS] speeds are all currently required to be offered to their wholesale customers) and telephone companies (whose highest speeds are not offered to their wholesale customers since these services are provided on a fibre-to-the-premises [FTTP] basis).

3. The Commission did not receive any interventions regarding Videotron's TN 59.

Commission's analysis and determinations

4. The introduction of the aggregated Giga, disaggregated Giga, aggregated 1.5 Giga, and disaggregated 1.5 Giga services is consistent with the speed-matching requirement under which TPIA speed offerings must be equivalent to retail service, as set out in Telecom Regulatory Policy 2010-632. The wholesale rate for the aggregated Giga service with a monthly access fee of \$81.60 is based on the rate that the Commission considered reasonable and approved on a final basis in Telecom Decision 2021-181.
5. With respect to the wholesale rate for the disaggregated Giga service with a monthly access fee of \$75.81, this is the rate that the Commission considered reasonable and approved on an interim basis in Telecom Order 2017-312.
6. With respect to the speed tier of the aggregated and disaggregated 1.5 Giga services, the Commission notes that the services have never been subject to cost studies. Videotron's proposal to align the monthly access fees with the nearest lower speed tier (\$81.60 for the aggregated 1.5 Giga service and \$75.81 for the disaggregated 1.5 Giga service) is a reasonable approach that has already been adopted on an interim basis by the Commission several times. Therefore, the Commission **approves on an interim basis** these rates.
7. However, the Commission considers that a final rate for the aggregated 1.5 Giga service must be supported by a cost study. The Commission **orders** Videotron to submit to the Commission a cost study for the aggregated 1.5 Giga service speed tier within **60 days** of publication of this order using the principles of Phase II methodology.² A cost study for the disaggregated 1.5 Giga service speed tier is not required until final rates for wholesale disaggregated TPIA services are finalized.
8. With respect to Videotron's request to reserve the right to withdraw the Giga and 1.5 Giga services from its aggregated and disaggregated TPIA services in the event that the Commission approves Shaw's request for relief,³ the Commission notes that it would be inappropriate to grant Videotron such a right, which would exempt Videotron from the obligation to submit a destandardization request in accordance with the Phase II costing principles.

² Phase II costing principles reflect the costs of the prospective incremental resources used to provide the service, consistent with the costing methodologies and assumptions set out in the Regulatory Economics Studies Manual. A review of the Phase II costing methodology is underway as a result of Telecom Notice of Consultation 2020-131.

³ In its request for relief, Shaw requested an exemption from the equivalent speed rule for TPIA services of 1 Gbps and higher.

9. The Commission clarifies that all destandardization requests are governed by Telecom Information Bulletin 2010-455-1, and that Videotron's TN 59 must be evaluated independently of the pending requests for relief. The Commission notes that it is inappropriate to approve a TN with a right to withdraw services that is conditional on the Commission's decision on a request for relief, and it is even less appropriate to grant a right of withdrawal that is conditional on a request for relief filed by a party separate from the party that submitted the TN.
10. In Telecom Order 2021-57 regarding Shaw's TN 34,⁴ the Commission determined that Shaw's TN 34 should be considered independently from the request for relief. In addition, in Telecom Order 2021-57, the Commission reiterated considerations about consistency and the lack of uncertainty for wholesale customers with respect to TPIA services. The Commission maintains that consistency and certainty are equally important with respect to the availability of the Giga and 1.5 Giga services for Videotron's TPIA service customers.
11. In Telecom Order 2021-57, the Commission noted that there is no significant uncertainty regarding Shaw's 1 gigabit per second TPIA service that would provide Shaw with a unique treatment with respect to the 60-day filing requirement for destandardization or withdrawal. The Commission determines that there is no significant uncertainty regarding Videotron's Giga and 1.5 Giga services that would provide a unique treatment for their destandardization or withdrawal.
12. The Commission reminds Videotron that, as set out in Telecom Order 2021-57, a destandardization application must, among other things, be filed with the Commission at least 60 calendar days before the proposed effective date and must include a cover letter and any supporting documentation required by the Commission. The Commission notes that the 60-day filing requirement for destandardization applications is essential to allow the Commission and other parties to evaluate the destandardization or withdrawal applications to ensure that they comply with all applicable requirements. The 60-day filing requirement further ensures that competitors have sufficient notice to plan and prepare for the destandardization or withdrawal of a TPIA service. It is also an important safeguard for consumers to ensure that they do not suddenly lose service and that they are properly notified.

Policy Directions

13. In arriving at its conclusions, the Commission has considered the 2019 Policy Direction⁵ and the policy objectives set out in paragraphs 7(a), (b), (c), (f), and (h) of

⁴ The Commission notes that in Shaw's TN 34 and TN 36, dated 12 June 2020 and 8 November 2020, the company requested that the introduction of TPIA services at speeds of 1 Gbps and 1.5 Gbps be conditional on the approval of its 27 May 2020 request for relief, in which Shaw requested that the Commission not apply its equivalent speed rule to access services with 1 Gbps download speeds.

⁵ *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, June 17, 2019

the *Telecommunications Act* (the Act).⁶ The Commission considers that the implementation of the Giga and 1.5 Giga services would be in line with the policy objectives set out in paragraphs 7(a), (b), (c), (f), and (h) of the Act.

14. The 2006 Policy Direction⁷ requires the Commission to rely on market forces to the greatest extent possible and regulate, where there is still a need to do so, in a manner that interferes with the operation of market forces to the minimum extent necessary to meet the policy objectives of the Act. It also requires the Commission to specify, when relying on regulatory measures, the policy objective that is advanced by those measures. The above determinations support the policy objectives set out in paragraphs 7(a), (b), (c), (f), and (h) of the Act.
15. Specifically, Videotron offering Giga and 1.5 Giga services to its competitors increases competition in Canada for the provision of high-end Internet access services and has the potential to provide Canadians with greater freedom of choice in their Internet service provider for market-leading telecommunications services.
16. The 2019 Policy Direction states that, in exercising its powers and duties under the Act, the Commission should consider how its decisions can promote competition, affordability, consumer interests, and innovation. The Commission considers that the expectations set out in this order are consistent with this Policy Direction, particularly with respect to subparagraphs 1(a)(i), (ii), (iii), (v), and (vi).⁸ Specifically, Videotron offering Giga and 1.5 Giga services to its competitors at a reasonable access rate encourages competition; promotes lower prices, particularly where Videotron exercises market power on download speeds between 500 Mbps and 1500 Mbps; ensures that access to state-of-the-art telecommunications services is available in new areas of Canada; reduces barriers to entry for competitors on these speeds; and enables innovation in telecommunications services and new technologies by providing outstanding download speeds for retail consumers.

Secretary General

⁶ The cited telecommunications policy objectives are: 7(a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions; 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; 7(c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications; 7(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; and 7(h) to respond to the economic and social requirements of users of telecommunications services.

⁷ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, SOR/2006-355, December 14, 2006

⁸ The cited objectives of the Policy Directions are: 1(a)(i) encourage all forms of competition and investment; 1(a)(ii) foster affordability and lower prices, particularly when telecommunications service providers exercise market power; 1(a)(iii) ensure that affordable access to high-quality telecommunications services is available in all regions of Canada, including rural areas; 1(a)(v) reduce barriers to entry into the market and to competition for telecommunications service providers that are new, regional or smaller than the incumbent national service providers; and 1(a)(vi) enable innovation in telecommunications services, including new technologies and differentiated service offerings.

Related documents

- *Requests to review and vary Telecom Order 2019-288 regarding final rates for aggregated wholesale high-speed access services*, Telecom Decision CRTC 2021-181, 27 May 2021
- *Shaw Cablesystems G.P. – Introduction of Internet 1000 wholesale high-speed access service*, Telecom Order CRTC 2021-57, 11 February 2021
- *Call for comments – Review of the approach to rate setting for wholesale telecommunications services*, Telecom Notice of Consultation CRTC 2020-131, 24 April 2020, as amended by Telecom Notice of Consultation CRTC 2020-131-1, 7 July 2020, as amended by Telecom Notice of Consultation CRTC 2020-131-2, 19 October 2020
- *Interim rates for disaggregated wholesale high-speed access services in Ontario and Quebec*, Telecom Order CRTC 2017-312, 29 August 2017, as amended by Telecom Order CRTC 2017-312-1, 12 September 2017
- *Approval processes for tariff applications and intercarrier agreements*, Telecom Information Bulletin CRTC 2010-455-1, 19 February 2016
- *Wholesale high-speed access services proceeding*, Telecom Regulatory Policy CRTC 2010-632, 30 August 2010