



## Telecom Notice of Consultation CRTC 2024-292

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Ottawa, 21 November 2024

*Public record: 1011-NOC2024-0292*

### Call for comments – Reconsideration of an aspect of Telecom Decision 2023-358

**Deadline for submission of interventions: 12 December 2024**

**Deadline for submission of replies: 19 December 2024**

[\[Submit an intervention or view related documents\]](#)

#### Summary

The Commission is working to increase choice and affordability of high-speed Internet services by promoting greater competition between Internet service providers (ISPs).

Wholesale access is a key tool to promote greater competition. It allows competitors to use the Internet networks of large telephone and cable companies to provide retail Internet services to consumers. Through increased competition, Canadians gain access to a broader range of service plans at lower prices.

In March 2023, the Commission launched Telecom Notice of Consultation 2023-56 (the Notice) to renew its approach to encouraging vibrant and sustainable competition in Canada's Internet service markets. The Commission recognized in the Notice that it would take time to fully develop the evidentiary record required to make a final determination on the broader approach to encouraging Internet competition. To address pressing competitive concerns, the Commission ran an expedited process to determine whether competitors should gain temporary access to aggregated fibre-to-the-premises (FTTP) services until a final determination could be made.

The expedited process resulted in Telecom Decision 2023-358 (the Temporary Decision), released in November 2023. The Temporary Decision provided competitors with temporary aggregated FTTP services over the networks deployed by Bell Canada and TELUS Communications Inc. (TELUS) in Ontario and Quebec – the parts of the country where competition had declined most significantly. The Temporary Decision was designed to enable companies to enter new markets and encourage more competition to bring Canadians lower prices and innovative new service plans.

In February 2024, Bell Canada petitioned the Governor in Council to rescind the Temporary Decision. In the alternative, it asked the Governor in Council to vary or refer the Temporary Decision back to the Commission for reconsideration.

At that time, the Commission was continuing to build a robust record upon which to finalize its approach to encouraging Internet competition. The public record included submissions from more than 300 parties and significant expert evidence, as well as the views of 22 groups (including large ISPs, competitors, and consumers) that were provided during a week-long public hearing in February 2024.

Based on the public record, the Commission developed Telecom Regulatory Policy 2024-180 (the Final Decision), released in August 2024. Among other things, the Final Decision provides competitors with access to aggregated FTTP services more broadly across Canada on an indeterminate basis beginning no later than 13 February 2025.

On 6 November 2024, the Governor in Council, through Order in Council P.C. 2024-1172 (the Reconsideration Order), referred the Temporary Decision back to the Commission to reconsider a discrete aspect of that decision. That aspect is whether the three largest ISPs in Canada – Bell Canada, Rogers Communications Canada Inc., and TELUS (and their affiliates) – should be prohibited from accessing the temporary FTTP wholesale service in Ontario and Quebec.

This current proceeding provides stakeholders with the opportunity to share their views on whether changing the Temporary Decision would advance the public interest. The proceeding is focused on the issues set out in the Reconsideration Order and will follow the 90-day timeline prescribed therein.

Although the Reconsideration Order refers to the Final Decision (which has now replaced the Temporary Decision), it does not order its reconsideration; however, following issuance of the Reconsideration Order, several parties have asked the Commission to review and vary different aspects of the Final Decision, including the issue of whether the three largest ISPs should be able to use the aggregated FTTP services provided by the Final Decision. The public proceedings regarding these requests to vary the Final Decision are already underway.

## **Background**

1. Most Canadians subscribe to Internet services through wireline broadband provided by a local telephone company, known as an incumbent local exchange carrier (ILEC), or by a cable company. These large Internet service providers (ISPs), which are collectively referred to as incumbents, serve over 80 percent of Canadian households. To foster competition, the Commission has historically required incumbents to provide wholesale high-speed access (HSA) services, which allow competitors to use incumbents' networks to offer competing retail Internet services.

Canadians benefit from increased competition through additional choice in service plans and providers, as well as lower prices for their Internet services.

2. In recent years, however, rapidly changing market conditions have challenged the wholesale HSA regime's ability to support competition. Consumer demand for higher-speed Internet services has grown rapidly and ILECs quickly deployed fibre-to-the-premises (FTTP) facilities. However, competitors did not have a workable way to sell services over FTTP. As a result, providers who wished to use wholesale HSA found it challenging to bring attractive services to market.
3. To provide more competitive choices for Canadians and better support to the retail Internet service markets, the Commission launched Telecom Notice of Consultation 2023-56 (the Notice).

### **Aggregated FTTP access**

4. The proceeding initiated by the Notice sought to help improve Internet service competition in Canada so that Canadians could benefit from additional choice and more affordable Internet services. It focused on fostering greater competition by providing competitors with workable wholesale HSA services over FTTP (aggregated FTTP services).
5. In the Notice, the Commission recognized that it would take time to fully develop the evidentiary record required to make a final determination on the broader approach to improve wholesale HSA. To address pressing competitive concerns, the Commission ran an expedited process to determine whether competitors should gain temporary access to aggregated FTTP services until a final determination could be made.

### **Telecom Decision 2023-358 – Temporary aggregated FTTP access**

6. The expedited process in the Notice resulted in Telecom Decision 2023-358 (the Temporary Decision). The Temporary Decision provided competitors with temporary access to aggregated FTTP services over the networks deployed by Bell Canada and TELUS Communications Inc. (TELUS) in Ontario and Quebec – the parts of the country where competition had declined most significantly.
7. Through the Temporary Decision, the Commission acted quickly to benefit competition and, ultimately, Canadians. The Temporary Decision was designed to enable companies to enter new markets and encourage more competition to bring Canadians lower prices and innovative new service plans.
8. The temporary Decision did not contain any restriction on who could use aggregated FTTP services. This is consistent with the regulatory treatment of wholesale HSA services since its inception more than two decades ago.

9. The access provided by the Temporary Decision was made available in early May 2024. Dozens of providers – including one of the large ILECs and its affiliates – have been using that access to offer consumers fibre Internet service plans.

### **Telecom Regulatory Policy 2024-180 – Final aggregated FTTP access**

10. Following the launch of the Notice in March 2023, the Commission built a robust public record that included submissions from more than 300 parties and significant expert evidence. That record also incorporated the views of 22 groups (including large ISPs, competitors, and consumers) that were provided during a week-long public hearing in February 2024.
11. Through that record, the Commission developed Telecom Regulatory Policy 2024-180 (the Final Decision), which was released in August 2024. Among other things, the Final Decision provides competitors with access to aggregated FTTP services more broadly across Canada on an indeterminate basis beginning no later than 13 February 2025. This access is to be made available on the fibre networks of the large ILECs: Bell Canada (and its affiliates operating in Manitoba and Atlantic Canada), TELUS, and Saskatchewan Telecommunications.
12. The Final Decision prohibits incumbents from using wholesale HSA services (including aggregated FTTP services) to serve customers in their traditional serving territories.
13. Through Telecom Order 2024-261, the Commission established cost-based, just and reasonable interim rates for the aggregated FTTP services mandated in the Final Decision. These rates took effect on 25 October 2024 and, accordingly, aggregated FTTP services in Ontario and Quebec are now provided under the Final Decision. As a result, the aggregated FTTP service established in the Temporary Decision has been replaced with the aggregated FTTP service established in the Final Decision.

### **Reconsideration**

14. On 2 February 2024, Bell Canada filed a petition asking the Governor in Council to rescind the Temporary Decision. In the alternative, it asked the Governor in Council to vary or refer the Temporary Decision back to the Commission for reconsideration.
15. On 5 November 2024, in response to Bell Canada's petition, the Governor in Council made Order in Council P.C. 2024-1172 (the Reconsideration Order). The Reconsideration Order referred the Temporary Decision back to the Commission for reconsideration of one discrete aspect of that decision.

## **Scope of the Reconsideration Order**

16. The Reconsideration Order directs the Commission to reconsider, within 90 days, whether the three largest ISPs in Canada – Bell Canada, Rogers Communications Canada Inc. (Rogers), and TELUS (and their affiliates) – should be prohibited from using aggregated FTTP services in Ontario and Quebec under the Temporary Decision.
17. The Reconsideration Order makes reference to the Final Decision, but does not vary, rescind, or refer the Final Decision back to the Commission for reconsideration.

## **Review and vary applications for the Final Decision**

18. Following issuance of the Reconsideration Order, the Commission received applications to review and vary different aspects of the Final Decision. Certain of these applications (i) ask the Commission to prohibit Bell Canada, Rogers, and TELUS from using any HSA service (including aggregated FTTP services) provided under the Final Decision, and (ii) include a specific procedural request that the review and vary be combined with the reconsideration.
19. The review and vary applications provide parties who wish to share their views with respect to the Final Decision an opportunity to do so. The public proceedings regarding the requests to review and vary the Final Decision are already underway.

## **Call for comments**

20. In light of the considerations set out in the Reconsideration Order, parties are invited to comment on whether changing the Temporary Decision would advance the public interest. Submissions should include a detailed rationale supported by all relevant evidence.
21. The Commission will review the matters raised in this proceeding in light of the policy objectives set out in section 7 of the *Telecommunications Act* and will take into consideration the 2023 Policy Direction.<sup>1</sup> Parties should take the policy objectives and the 2023 Policy Direction into account and address their relevant aspects, as applicable.

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<sup>1</sup> *Order Issuing a Direction to the CRTC on a Renewed Approach to Telecommunications Policy*, SOR/2023-23, 10 February 2023.

## What you need to know to participate in this proceeding

### Procedure

22. The [\*Canadian Radio-television and Telecommunications Commission \[CRTC\] Rules of Practice and Procedure\*](#) (the Rules of Procedure) apply to this proceeding. The Guidelines on the CRTC Rules of Practice and Procedure (Broadcasting and Telecom Information Bulletin 2010-959) are meant to help members of the public understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.
23. Given the need to respond to the Governor in Council within 90 days, the Commission will hold an expedited process, pursuant to section 7 of the Rules of Procedure.

### Submitting an intervention

24. The Commission invites interventions that address the issue set out above. The Commission will accept interventions that it receives no later than **12 December 2024**.
25. All parties that participated in the proceeding initiated by Telecom Notice of Consultation 2023-56 are made parties to this proceeding and may file interventions with the Commission no later than **12 December 2024**.
26. Interested persons who file an intervention automatically become a party to this proceeding. Only parties to the proceeding can participate in further stages of the proceeding.
27. Submissions must be filed by sending them to the Secretary General of the Commission using only one of the following means:
  - completing the Commission's [intervention form](#);
  - sending a fax to 819-994-0218; or
  - writing by mail to CRTC, Ottawa, Ontario K1A 0N2.
28. Submissions longer than five pages should include a summary. Submissions will be posted in the official language and format in which they are received.
29. The deadline to submit an intervention to the Commission is 5 p.m. Vancouver time (8 p.m. Ottawa time). 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 will not be considered by the Commission and will not be made part of the public record.

## **Submitting a reply**

30. Parties can file replies with the Commission by **19 December 2024**. Their replies can address any matters on the record of the proceeding.

## **Privacy notice**

31. Please note the following:

- Documents will be posted on the Commission's website exactly as received. This includes any personal information contained in them, such as full names, email addresses, postal/street addresses, and telephone and fax numbers.
- All personal information parties provide as part of this public proceeding, except information designated as confidential, will be posted on the Commission's website and can be accessed by others.
- However, the information parties provide can only be accessed from the web page of this particular public proceeding. As a result, a general search of the Commission's website using 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 proceeding.
- 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.

## **Confidentiality**

32. The Commission's proceedings are designed to allow members of the public to provide input so that the Commission can make better, more informed decisions. As a result, the general rule is that all information filed with the Commission is placed on the public record and can be reviewed by all parties and members of the public.

33. However, the Commission also often needs detailed information from the companies it regulates and supervises to make an informed decision. This information can be commercially sensitive, especially as the environment in which the companies operate becomes more competitive. The Commission will therefore accept certain information as confidential.

34. Parties can request that information be filed in confidence under subsection 39(1) of the *Telecommunications Act* with a detailed rationale as to why that information should be considered confidential. The Commission reminds parties that make such a request that when a document is filed with confidential information, an abridged version must also be filed so that it can be included in the public record.

## Accessible formats for people with disabilities

35. The Commission requires regulated entities and encourages all parties to file submissions in accessible formats (for example, text-based file formats that enable text to be enlarged or modified or read by screen readers) for this proceeding. To help in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats.
36. If submitted documents have not been filed in accessible formats, you can contact the Commission's Hearings & Public Proceedings group at [hearing@crtc.gc.ca](mailto:hearing@crtc.gc.ca) to request that Commission staff obtain those documents in accessible formats from the party that originally submitted the documents in question.

## Accessing documents

37. Links to interventions, as well as other documents referred to in this notice, are available on the Commission's "[Consultations and hearings: have your say](#)" page.
38. Documents are available upon request during normal business hours by contacting:

Documentation Centre  
[Examinationroom@crtc.gc.ca](mailto:Examinationroom@crtc.gc.ca)  
Tel.: 819-997-4389  
Fax: 819-994-0218

Client Services  
Toll-free telephone: 1-877-249-2782  
Toll-free TTY: 1-877-909-2782

39. Interested persons can find electronic versions of the documents by clicking on "[\[Submit an intervention or view related documents\]](#)" at the top of this notice.

Secretary General

## Related documents

- *Interim rates for aggregated wholesale high-speed access services over fibre-to-the-premises facilities*, Telecom Order CRTC 2024-261, 25 October 2024
- *Competition in Canada's Internet service markets*, Telecom Regulatory Policy CRTC 2024-180, 13 August 2024
- *Review of the wholesale high-speed access service framework – Temporary access to fibre-to-the-premises facilities over aggregated wholesale high-speed access services*, Telecom Decision CRTC 2023-358, 6 November 2023
- *Notice of hearing – Review of the wholesale high-speed access service framework*, Telecom Notice of Consultation CRTC 2023-56, 8 March 2023; as



amended by Telecom Notices of Consultation CRTC 2023-56-1, 11 May 2023; 2023-56-2, 4 July 2023; 2023-56-3, 6 November 2023; and 2023-56-4, 8 April 2024

- *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 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