



Telecom Decision CRTC 2025-154

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Consolidated applications to review and vary Telecom Regulatory Policy 2024-180

Summary

The Commission is taking action to increase choice, affordability, and coverage of high-speed Internet services.

In recent years, Canadians have had fewer options when choosing an Internet service provider (ISP). To help increase Internet service competition, the Commission launched Telecom Notice of Consultation 2023-56, and focused on achieving two main objectives: empowering Canadians with new choices of ISPs, and helping ensure continued investment in high-quality networks.

In August 2024, through Telecom Regulatory Policy 2024-180 (the Final Decision), the Commission took action to increase Canadians' choice of ISPs by allowing competitors to sell Internet plans using the existing fibre networks of Canada's largest telephone companies. The Commission also took steps to help ensure continued investment in high-quality networks by (i) setting cost-based interim rates that ensure large telephone companies are compensated for the expense of building out existing fibre networks, (ii) prohibiting large incumbents from using wholesale access in the parts of the country that they have traditionally served with their own networks, and (iii) delaying competitor access to any newly deployed fibre until 2029.

The Final Decision was based on a robust record that included submissions from more than 300 parties, significant expert evidence, and a week-long public hearing in February 2024.

The Final Decision is already increasing Internet service competition. More than a dozen providers are using access to fibre networks at cost-based interim rates to bring competing Internet plans to market across Canada. Thousands of households now subscribe to Internet service provided using the access provided under the Final Decision.

In November 2024, three groups filed applications asking the Commission to review and vary the Final Decision. The applicants claim that the Final Decision might increase competition in the short term, but this gain will come at the cost of reduced investment in networks and, ultimately, less competition in the long term.

Review and vary applications require applicants to demonstrate substantial doubt as to the correctness of a Commission decision and are assessed against a well-established test set out in Telecom Information Bulletin 2011-214. To support their claims, the applicants filed studies and projections they created to forecast the potential impacts of the Final Decision. Interveners, including ISPs, consumer groups, and the Competition Bureau, filed submissions in response. The Commission further built the evidentiary record through requests for information to 63 interested persons to better understand and analyze the applicants' claims.

Based on this robust record, the Commission finds that the applicants did not demonstrate a substantial doubt as to the correctness of the Final Decision. This conclusion is based on the Commission's findings that:

- when an ISP uses wholesale access to sell retail Internet services outside its existing network footprint, it becomes a new choice of ISP for consumers, despite the applicants' assertions that existing ISPs with a significant customer base in one region are not providing new choices to Canadians when they begin serving customers in other parts of Canada;
- industry projections based on current market conditions and past trends forecast that the Final Decision will have a modest near-term impact on the market share of regional competitors, despite the applicants' claims that the Final Decision will severely harm these ISPs;
- many ISPs have developed a customer base selling stand-alone Internet plans for many years, even though the applicants allege the Final Decision will give large incumbents a significant competitive advantage over other ISPs by being able to sell bundles across wider parts of Canada; and
- ISPs will continue to be encouraged to invest in their networks for several reasons, including (i) the need for each ISP to stay competitive against other providers who offer higher-speed Internet, (ii) the operational advantages and cost savings of fibre compared to legacy copper, (iii) the Commission's use of cost-based wholesale rates that compensate companies for the expense of building out networks, and (iv) the specific investment protections offered by the Final Decision.

Accordingly, while the Commission appreciates the significance of the applicants' claims, the balance of the evidence does not establish a substantial doubt as to the correctness of the Commission's decision. Therefore, the Commission declines to vary the Final Decision.

The Commission's updated framework for Internet service competition remains in its early days. Several thousand Canadian households have already purchased new Internet plans offered by dozens of providers that are using the access enabled by the Final Decision. Changing course now would reverse the benefits of this increased competition and would prevent more Canadians from having new choices of ISPs in the future.

The Commission will continue to closely monitor Internet service competition and is ready to make any adjustments necessary. In doing so, the Commission will be guided by ensuring the continued growth of consumer benefits from robust competition between ISPs alongside continued investment in high-speed Internet for the benefit of Canadians. The Commission will also continue to move quickly to set final rates for wholesale access to telephone company fibre networks.

Background

1. For more than 20 years, the Commission has mandated the largest incumbent local exchange carriers (ILECs) and cable carriers to provide wholesale high-speed access (HSA) services. Over this period, wholesale HSA services have been made available for any company to use in providing retail Internet services to Canadians.
2. Wholesale HSA services give competitive Internet service providers (ISPs) a viable way to enter the market. When ISPs have to compete harder to win Canadians' business, Canadian households benefit from this competition in the form of lower prices, greater choice, and the introduction of innovative Internet services.
3. In recent years, however, Canadians have had fewer options when choosing an ISP, and the use of wholesale HSA services declined significantly. To address this decline, the Commission launched Telecom Notice of Consultation 2023-56 (the Proceeding) in March 2023 to renew its approach to wholesale HSA services.
4. Through the Proceeding, the Commission built a comprehensive record upon which to update its regulatory framework. This included submissions from more than 300 parties and significant expert evidence, as well as detailed testimony during a week-long public hearing in February 2024 from 22 groups, including incumbents, independent competitors, and consumers.
5. In August 2024, the Commission issued Telecom Regulatory Policy 2024-180 (the Final Decision). The Final Decision updates the Commission's regulatory framework to (i) support vigorous competition in the retail Internet service market in order to deliver greater affordability, increased choice, and new service offerings for Canadians; and (ii) promote investments in high-quality networks, particularly in underserved areas.
6. The Final Decision introduced two key measures to increase Internet service competition:
 - ILECs must provide competitors with aggregated wholesale access to their fibre-to-the-premises (FTTP) networks on an indefinite basis. Competitors had historically struggled to compete for customers at the higher speeds that FTTP networks offer; this new access allows competitors to offer Internet services at speeds Canadians increasingly need.
 - All incumbents who are required to provide wholesale access must continue to make those services available on an aggregated basis, including over cable

and legacy ILEC networks. The Commission had previously attempted to move competitors to disaggregated access; however, competitors were not successful in making use of this access. This contributed to market instability as independent ISPs have found it increasingly challenging to bring attractive services to market.

7. Through the Proceeding and the Final Decision, the Commission has introduced three key measures to support network investments:
 - Setting cost-based interim rates. This ensures that large telephone companies are compensated for the expense of building out existing fibre networks.
 - Incumbents are prohibited from using wholesale access in the parts of the country that they have traditionally served with their own networks (the in-territory rule). This means that incumbent carriers must build and use their own networks to compete in these areas.
 - Competitors cannot access any newly deployed fibre until 2029 (the head start rule). This gives companies a greater opportunity to begin recouping their investments on new builds even before wholesale obligations take effect.
8. The Commission will continue moving quickly to set final rates for competitor access to fibre. In setting final rates, the Commission will use the same long-standing approach it used to determine interim rates. As a result, the final rates will reflect the costs incurred to build out fibre networks. This approach helps ensure that companies will continue to be incentivized to invest in high-quality networks.
9. Canadians are already seeing the benefit of the Commission's updated regulatory framework. Since coming into effect in February 2025, more than a dozen providers have started using this new access, at the Commission's cost-based interim rates, to bring new choices of Internet plans to Canadians. Thousands of Canadian households have since subscribed to new Internet plans offered by these competitors, and competition is expected to continue to increase as wholesale providers expand into new markets.
10. The Final Decision was also informed by the 2023 Policy Direction¹ that the Governor in Council (GIC) issued to the Commission in February 2023 (the Policy Direction). The Policy Direction requires the Commission to promote competition, affordability, consumer interests, and innovation while reducing barriers to entry into the market and to competition for new, regional, and smaller providers.

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

Review and vary applications

11. The Commission received three applications to review and vary aspects of the wholesale HSA framework set out in the Final Decision:
- On 7 November 2024, Cogeco Communications Inc., on behalf of its subsidiary Cogeco Connexion Inc. (collectively, Cogeco); the Competitive Network Operators of Canada (CNOc); and Bragg Communications Incorporated, carrying on business as Eastlink (Eastlink) [collectively, Cogeco et al.] requested that the Final Decision be varied so that Bell Canada, Rogers Communications Canada Inc. (Rogers), and TELUS Communications Inc. (TELUS) are not eligible to access mandated wholesale HSA services anywhere in Canada.
 - On 12 November 2024, Rogers requested that the Final Decision be varied so that all incumbent carriers are denied access to wholesale HSA services, or in the alternative, that Bell Canada, Rogers, and TELUS (the Largest Incumbents) are denied this access. Rogers also submitted that either the head start rule should be varied so that it applies to HFC/Data Over Cable Service Interface Specification (DOCSIS) [i.e., cable networks] upgrades, or that wholesale HSA service speeds should be subject to a speed cap of 1.5 gigabits per second (Gbps) to protect infrastructure investment incentives.
 - Also on 12 November 2024, TekSavvy Solutions Inc. (TekSavvy) submitted that the Commission should reconsider the aspect of the Final Decision in which the Largest Incumbents are allowed to access wholesale HSA services outside of their own traditional wireline serving territories. TekSavvy also submitted that the head start rule should be varied so that it does not apply to new ILEC FTTP in-territory builds. It additionally submitted that cable companies' exemption from the requirement to provide wholesale HSA services over FTTP should have a defined end date.
12. In the interest of efficiency, on 25 November 2024, the Commission consolidated the three applications into a single process.²
13. In response to the applications, the Commission received submissions from Beanfield Technologies Inc., operating as Beanfield Metroconnect; Bell Canada; Bravo Telecom; CNOc; Cogeco; the Competition Bureau Canada; D2 Technologie; Eastlink; Fibernetics Corporation; Lytton First Nation; the Manitoba Coalition and the Public Interest Law Centre (joint submission); Mastercom Inc.; Orizon Mobile; Public Interest Advocacy Centre (PIAC); Quebecor Media inc., on behalf of its subsidiaries, Videotron Ltd. and Freedom Mobile inc. (collectively Quebecor);

² [Telecom – Secretary General letter addressed to the various parties interested in the procedural directions related to applications to review and vary the wholesale high-speed access framework | CRTC.](#)

Rogers; Saskatchewan Telecommunications; TekSavvy; TELUS; Tzeachten First Nation; Vaxination Informatique; and three individual interveners.

Review and vary criteria

14. The Commission's framework for assessing review and vary applications is set out in Telecom Information Bulletin 2011-214. This is a well-established framework that contributes to regulatory certainty and predictability by allowing the Commission to revisit a past decision and make corrections for any errors, oversights, or changes in circumstances.
15. Based on the record before it, the Commission assesses whether there is substantial doubt as to the correctness of the decision. If there is a substantial doubt, the Commission can consider varying a decision.
16. The Commission will typically assess whether an applicant has established substantial doubt resulting from:
 - an error in law or in fact;
 - a fundamental change in circumstances or facts since the decision;
 - a failure to consider a basic principle which had been raised in the original proceeding; or
 - a new principle that has arisen as a result of the decision.

Issue

17. The Commission identified the following issue to be addressed in this Decision:
 - Is there substantial doubt as to the correctness of the Commission's decision with respect to (i) Largest Incumbent eligibility to access mandated wholesale HSA services, and (ii) the measures to support continued network investment?

Positions of parties

Alleged errors in law and in fact, and principles allegedly not considered

18. In their respective applications, Cogeco et al., Rogers, and TekSavvy alleged the following determinations in the Final Decision constituted errors in law or in fact, or were principles that were allegedly not considered:

- The Largest Incumbents are new entrants that would support diverse competition when they offer retail wireline³ services outside of their traditional incumbent wireline serving territories.
- The Final Decision is consistent with the Policy Direction’s requirement that the Commission promote competition, affordability, consumer interests, and innovation while reducing barriers to entry into the market and to competition for new, regional, and smaller providers.
- The wholesale wireline service market and the wholesale wireless service market are subject to different regulatory requirements resulting in different investment incentives.
- The evidence regarding service bundling demonstrated that Canadians need more choices for wireline and wireless service bundles.
- DOCSIS (i.e., cable network) upgrades are not eligible for the head start rule.
- Speed caps do not apply to mandated wholesale HSA services.
- There is no specific end date for the cable companies’ exemption from the requirement to provide wholesale HSA services over FTTP.
- The head start rule applies to new ILEC FTTP in-territory builds.

19. Bell Canada, Cogeco et al., PIAC, Quebecor, Rogers, SaskTel, and TekSavvy supported the view that the Largest Incumbents cannot be considered new entrants when using wholesale HSA to sell retail wireline services outside their incumbent serving areas and, therefore, should be barred from accessing mandated wholesale HSA services. These parties generally stated that the Largest Incumbents have distinct advantages over smaller ISPs, including national wireless networks, brand recognition, an extensive retail presence, and robust backhaul access.

20. Bell Canada, Cogeco et al., Rogers, and TekSavvy submitted that the Final Decision is inconsistent with the Policy Direction’s call for the Commission to reduce barriers to competition for new, regional, and smaller providers. Their applications set out a concern that the Largest Incumbents are likely to use mandated wholesale HSA – and in particular, bundles of wireline and wireless services – to out-compete smaller providers and ultimately force them out of the market.

21. Rogers stated that the head start rule is competitively and technologically inequitable because it applies to future ILEC FTTP investments, but not to future DOCSIS (i.e.,

³ For greater certainty, the term “wireline” includes Internet service, but also includes other retail services that are provided over wired networks, including television, home phone, security, and smart home services.

cable network) investments, and thus favours fibre technology over cable technology. Rogers also stated that by remaining silent on its proposal for a 1.5 Gbps speed cap, the Commission failed to consider a basic principle that Rogers raised in the Proceeding. It said that had a speed cap been adopted, it would have made the framework more equitable and mitigated the negative impact that a wholesale HSA service could have on new network investment.

22. Smaller providers – including regional incumbents and independent ISPs – also raised concerns that the Largest Incumbents have a significant advantage by being able to sell wireline and wireless services in bundled offerings. They stated that, by bundling these services, the Largest Incumbents can target the wireline customers of smaller and independent ISPs by cross-subsidizing services within the bundle (i.e., by taking a loss on retail Internet service while making up that loss through cellphone service to maintain profitability of the bundle). Smaller providers argued that bundling services in this way would limit their ability to compete and ultimately drive them out of business.
23. Bell Canada and Cogeco et al. stated that the Commission failed to consider the relationship between its wholesale frameworks for wireline and wireless access. They submitted that the Commission’s regulatory framework for wireline services is different than its wireless regulatory framework, including with respect to eligibility to access wholesale services. They submitted that the inconsistencies between the two frameworks will be detrimental to the Commission’s policy objectives because they will maintain, rather than reduce, barriers to entry and competition for smaller providers and undermine the success of the wireless framework by undercutting investment incentives in that sector. Cogeco et al. also stated that the eligibility requirements for access to wholesale wireless services better support network investment and that similar investment protection measures should have been applied for wireline networks.
24. TekSavvy submitted that new FTTP in-territory network builds should not benefit from the head start rule because there are already market incentives to build in these areas. Moreover, TekSavvy submitted that, for market certainty, cable carriers’ FTTP networks should not be exempt from a wholesale HSA mandate on an indeterminate basis, but instead the exemption should have a defined end date.
25. Bell Canada and Rogers stated that TekSavvy’s proposal to remove the head start rule for in-territory FTTP deployments should not be implemented. They stated that the proposal is unclear and unpredictable, and it would be costly to implement and enforce.
26. Cogeco, Eastlink, and Rogers opposed TekSavvy’s request to define an end date for cable companies’ exemption from the requirement to provide wholesale HSA services over their FTTP networks. They stated that it was premature to establish a firm start date for mandated access and that no compelling evidence was provided demonstrating that the exemption caused competitive harm.

27. TELUS stated that the applicants failed to show that, based on the evidence, there is substantial doubt as to the correctness of the Final Decision. TELUS noted that the general statements submitted by the applicants, including assertions that were made without supporting analysis, investigation, or evidence, cannot create substantial doubt as to the correctness of the Final Decision. Instead, TELUS stated that the Final Decision carefully calibrated competition, consumer, and investment objectives and was therefore well balanced.
28. TELUS stated that outside of their traditional wireline network footprint, the Largest Incumbents should be treated as new entrants. It stated that this is consistent with the decades-long approach the Commission has employed to characterize new entrants. Moreover, TELUS submitted that the Final Decision correctly determined that an incumbent operating outside of its traditional wireline territory is acting as a new competitor.
29. TELUS stated that the Commission considered the issue of wireline and wireless bundling extensively and concluded that the ability of competitors like TELUS to offer bundles is pro-competitive, noting that other regional carriers can develop their own service bundles using the Commission's wholesale frameworks. In this regard, the Competition Bureau reiterated the position it took in the proceeding that led to the Final Decision in which it submitted that, while any bundling by the incumbents could be a barrier to entry for smaller ISPs, the competitive benefits of an incumbent accessing wholesale HSA services outside its footprint likely outweigh the risk that independent wholesale-based competitors will be negatively impacted by incumbents offering bundles of services out-of-territory.
30. TELUS stated that the Final Decision properly took into account the Policy Direction guidance to the Commission, given that the Final Decision encouraged all forms of competition and promoted affordability, consumer interests, and innovation.

Change in circumstances

31. At the start of the Proceeding, the Commission recognized that it would take time to develop a record with the evidence needed to make a final determination on how to encourage more competition and continued investment in modern fibre networks. To address urgent competitive concerns, the Commission ran an expedited process to determine whether competitors should have temporary access to aggregated FTTP wholesale services until a final determination could be made in the Proceeding.
32. After this expedited process, in November 2023, the Commission provided competitors temporary access to aggregated wholesale HSA services over the ILECs' FTTP networks in Ontario and Quebec through Telecom Decision 2023-358 (the Temporary Decision). The Temporary Decision was implemented in May 2024 and remained in operation until it was replaced by a final service established in the Final Decision.

33. In November 2024, following a petition presented by Bell Canada, the GIC referred the Temporary Decision back to the Commission to reconsider a discrete aspect: whether the Largest Incumbents should have been prohibited from using the wholesale service provided in the Temporary Decision. The Commission then ran a process, through Telecom Notice of Consultation 2024-292, to consider this issue, and ultimately determined, in Telecom Decision 2025-39, that the public interest would not be advanced by changing the Temporary Decision.
34. Bell Canada, Cogeco et al., Quebecor, and Rogers submitted that the GIC's Order in Council (the Reconsideration Order) was a significant change in circumstances that raised substantial doubt as to the Final Decision's correctness.⁴ These parties stated that, by raising doubt as to the correctness of the determination to allow the Largest Incumbents to access wholesale HSA service on a temporary basis, the Reconsideration Order called into question the correctness of the eligibility criteria set out in the Final Decision.
35. Bell Canada also stated that its publicly announced investment cuts in response to the Final Decision represented a fundamental change in circumstances that also raised substantial doubt as to the correctness of the Final Decision.
36. TELUS stated that the Reconsideration Order was relevant only to the Temporary Decision, and not the Final Decision. Additionally, TELUS argued that, even if the Reconsideration Order was relevant, it provided no new facts upon which the Commission could conclude that there is a substantial doubt as to the correctness of the Final Decision.
37. TELUS stated that the Commission should not consider Bell Canada's claims that it reduced its investment in networks as a direct result of the Final Decision to be a change in circumstances that warrants varying the decision. TELUS added that, since just and reasonable final rates for aggregated FTTP services have yet to be set, Bell Canada could not credibly associate these investment decisions with the Commission's framework.

Proposed remedies

38. Parties proposed various solutions to remedy the alleged errors.
39. Several parties suggested that the eligibility criteria should be modified to further limit access to mandated wholesale HSA services. Rogers stated that the Commission should exclude all incumbents from accessing any wholesale HSA service (including over both FTTP and cable networks). Other applicants submitted that the Commission should exclude only the Largest Incumbents from accessing mandated wholesale

⁴ The Reconsideration Order referred Telecom Decision 2023-358 (the Temporary Decision) back to the Commission to reconsider whether Largest Incumbent wholesale HSA access should be prohibited under that decision.

HSA services. Rogers supported this proposal as an alternative, in the event the Commission determined that not all incumbents should be denied access.

40. Rogers further proposed that investment incentives would be improved by either extending the five-year head start to cover new speeds that are made possible by investments in cable networks or applying a 1.5 Gbps speed cap to mandated wholesale HSA services.
41. TekSavvy proposed that the Commission specify a particular timeline or trigger at which point cable companies would be required to provide aggregated wholesale HSA services over their FTTP networks. It also proposed modifying the five-year head start for new ILEC FTTP network builds so that it would only apply to facilities built outside of the ILECs' established serving territory.

Commission's analysis

Alleged errors in law and in fact, and principles allegedly not considered

Finding that the Largest Incumbents are new entrants that provide competitive diversity

42. In determining whether an ISP should be considered a new entrant, the Commission considers whether that ISP can act as a new alternative to Canadians that they have not previously had. The Commission notes that the Largest Incumbents do not own or operate networks to provide retail wireline services outside of their traditional wireline serving territories. Therefore, when these companies use wholesale HSA services to sell out-of-territory, they become a new competitive option for consumers in that area.

Consistency with Policy Direction

43. Paragraphs 76-79 of the Final Decision explain how the Commission's determinations are consistent with the Policy Direction. Some parties expressed concern over the Final Decision's support for new, regional, and smaller competitors and identified specific subsections of the Policy Direction that they believed were not fully met.
44. The Commission considers that it has effectively balanced the objectives in the Policy Direction to maximize benefits for Canadians. Any proposed remedies attempting to favour one specific subsection of the Policy Direction would result in an unbalanced framework that unduly prioritizes one objective or another, reducing the careful balance that was struck by the Commission in the Final Decision.
45. In any event, the Commission considers that many of the concerns raised regarding the interpretation of the Policy Direction result from the view that incumbent usage of wholesale HSA services outside their traditional serving territories will grow to such an extent that it will force regional and independent ISPs out of the market over the longer term. While the Commission recognizes the significance of these concerns, the record contains a wide range of projected outcomes. While some providers projected

dramatic growth by the Largest Incumbents operating out-of-territory (indicating that they would eventually capture as much as 50% of the retail market), the Largest Incumbents themselves projected more moderate growth.

46. The Commission considers the more moderate projections to be better supported by the facts. To date, the Largest Incumbents have captured no more than 2% of the market outside of their traditional operating territories. Additionally, at their peak, wholesale-based competitors held a 10% share of the overall retail market across Canada.
47. At present, the facts show that the Final Decision is increasing competition and enabling new choices for Canadians. Changing course now would reverse the benefits Canadians are receiving and prevent more Canadians from having more choice of ISPs in the future. The Commission will continue to monitor the use of its wholesale HSA framework and is prepared to make any adjustments necessary. In doing so, the Commission will be guided by ensuring the continued growth of consumer benefits from robust competition between ISPs alongside continued investment in high-speed Internet for the benefit of Canadians.
48. The Commission also acknowledges the central role that cost-based rates for wholesale access will have in determining the viability of competitor access to fibre and the continued incentive for telephone companies to deploy new fibre networks. The Commission will continue to move quickly to set cost-based final rates for wholesale access to telephone company fibre networks.

Differences between regulatory treatment of wireless and wireline markets

49. The Commission notes that it has established separate wireless and wireline wholesale frameworks that take different regulatory approaches, for example, with respect to encouraging investment. The Commission considers that the fact that there are differences between these frameworks does not raise substantial doubt as to their correctness. Each wholesale framework was established based on distinct product and geographic market definitions developed through separate public proceedings to address different market conditions, competitive challenges, and policy objectives.

Wireline and wireless service bundling

50. The Commission notes that it gave significant consideration to expert evidence, including that of the Competition Bureau, which discussed the potential consumer benefits of incumbents offering bundles of wireline and wireless services out-of-territory. The Commission notes that competitors already compete against incumbents that bundle wireless and wireline services in-territory and have done so for many years. Additionally, while increased competition due to incumbents offering bundles of services out-of-territory may represent an increased challenge for some companies, it is the Commission's view that Canadians stand to benefit from more choice in providers of bundled services.

Need to treat ILECs and largest cable companies equitably

51. The Commission recognizes that the ILECs and largest cable companies are subject to different wholesale HSA obligations. This is based in part on the recognition that equitable treatment will not always mean equal treatment given the significant differences between deploying new fibre and upgrading existing cable network facilities.
52. In establishing the measures to support continuing investment, the Commission's goal was to adopt targeted incentives to support new network investment. As a result, the Commission's decisions to not provide a head start for cable network facilities or impose a speed cap for mandated wholesale HSA services reflect the different economic and technical contexts of these two classes of services. These measures were targeted to investments that were more likely to be impacted by the provision of mandated wholesale HSA services – investments in new fibre networks, which have never been subject to a workable wholesale requirement, as opposed to cable networks, which have been subject to mandated access provisions for more than 20 years.

Scope of the FTTP wholesale mandate

53. The Commission considers that it was correct in its decision to not set out a specific end date for the cable FTTP exemption. The exemption was provided on the basis of the limited deployment of FTTP facilities by cable companies and the desire to minimize the regulatory burden imposed on an emerging service offering, and for the purpose of continuing to encourage investments in FTTP facilities by cable companies. The Commission will monitor FTTP deployment by cable companies to inform any future requirements.
54. With respect to the application of the head start rule to ILEC FTTP builds in-territory, the Commission sought an administratively simple way to support new fibre investment without unduly impacting competition. The Commission considers that proposals to modify the head start rule would be administratively burdensome and could reduce, rather than promote, investment incentives.

Changes in circumstances

55. Some parties stated that the Reconsideration Order itself represented a change in circumstances that justified a revision of the Final Decision. The Commission considers, however, that the Reconsideration Order was neither a change in circumstances nor did it have any impact on the underlying facts on which the Final Decision was based. The determinations set out in the Final Decision were based on a separate record and set of considerations that stand apart from those raised elsewhere.
56. Bell Canada stated that its decision to reduce investment also constituted a change in circumstances that justified a revision to the Final Decision. The Commission acknowledges the importance of network investment, and for that reason established specific measures in the Final Decision to support that investment. Specifically, the

Commission established a head start rule to allow ILECs to build market share and recoup some of their network investment before mandated wholesale access is available to competitors. In addition, the Commission's long-standing approach to setting cost-based wholesale rates considers the costs that companies incur to build their fibre networks, further supporting network investment.

57. The change in circumstances element of the Commission's review and vary framework addresses new facts or circumstances that have arisen and that render the original decision inappropriate or obsolete. If a party could effect a change in circumstances simply by making a public announcement without also providing substantive evidence demonstrating a causal link between the decision and the announcement, this would provide parties with an unsupported means to assert a change in circumstances. In this case, there is no compelling evidence on the record to establish such a causal link. Final wholesale rates – which are key to determining the business case for future investment – have not yet been set.

Conclusion

58. The Commission built the evidentiary record through requests for information to 63 interested persons to better understand and analyze the applicants' claims.
59. In the Commission's view, the applicants did not meet the evidentiary requirements for varying the decision. In particular, the record of this proceeding did not contain sufficient evidence that would lead to substantial doubt as to the correctness of the original decision.
60. Although some parties may disagree with the Commission's determinations, the Commission notes that the process that established the Final Decision was not conducted in isolation and is instead built on the Commission's previous wholesale determinations set out in Telecom Decisions 97-8 and 2008-17, and Telecom Regulatory Policy 2015-326. These are foundational decisions that have established many of the principles of wholesale regulation that have been consistently applied for decades, including the need to support competition and promote investment.
61. The Commission is of the view that the Final Decision properly weighed the evidence on the record of the proceeding and established a policy that effectively balances competition and investment while furthering relevant objectives under the Policy Direction and the *Telecommunications Act*.

Monitoring

62. The Commission recognizes that, while there have been early indicators of improved competitive intensity since the framework has been established, the extent to which its wholesale HSA framework will ultimately be successful is still unknown. As the framework continues to be implemented, the Commission will closely monitor the relevant markets and make any adjustments necessary. In doing so, the Commission will be guided by ensuring the continued growth of consumer benefits from robust

competition between ISPs alongside continued investment in high-speed Internet for the benefit of Canadians.

63. The focus of the Commission's monitoring will include (i) market shares of incumbent carriers (including through out-of-territory usage) and independent ISPs by province, (ii) incumbent out-of-territory subscribers that bundle wireline and wireless services, and (iii) new incumbent investments in fibre facilities.
64. This monitoring will be critical to ensuring that the wholesale HSA framework continues to meet the Commission's objectives, including ensuring that Canadians benefit from vigorous and diverse competitive options.
65. In light of all of the above, the Commission finds that there is no substantial doubt as to the correctness of the Final Decision and therefore declines to vary it.

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
- *Reconsideration of Telecom Decision 2023-358*, Telecom Decision CRTC 2025-39, 3 February 2025
- *Call for comments – Reconsideration of an aspect of Telecom Decision 2023-358*, Telecom Notice of Consultation CRTC 2024-292, 21 November 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
- *Review of wholesale wireline services and associated policies*, Telecom Regulatory Policy CRTC 2015-326, 22 July 2015, as amended by Telecom Regulatory Policy CRTC 2015-326-1, 9 October 2015
- *Revised guidelines for review and vary applications*, Telecom Information Bulletin CRTC 2011-214, 25 March 2011

- *Revised regulatory framework for wholesale services and definition of essential service*, Telecom Decision CRTC 2008-17, 3 March 2008
- *Local Competition*, Telecom Decision CRTC 97-8, 1 May 1997