Telecom Decision CRTC 2026-175

PDF version

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Gatineau, 17 July 2026

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Bell Mobility Inc. – Application for the review, rescission, and variance of a 25 May 2022 letter decision entitled *Bell Mobility Inc. – Application for various orders regarding Videotron Ltd.'s use of Bell Mobility's wholesale roaming service*

Summary

In a letter decision issued on 25 May 2022 (the Letter Decision), the Commission denied an application by Bell Mobility Inc. (Bell Mobility) regarding a dispute with Videotron Ltd. (Videotron) about Videotron's use of Bell Mobility's wholesale roaming service. Bell Mobility claimed, among other things, that Videotron had surpassed the threshold for incidental use of the wholesale roaming service. The Commission concluded that, at that time, it was not appropriate for it to specify a method for calculating a usage threshold and imposing it on parties. The Commission encouraged the parties to negotiate in good faith to resolve the dispute.

On 19 August 2022, Bell Mobility submitted an application requesting the Commission to review, rescind and vary the Letter Decision, claiming that it contained various errors of law and of mixed fact and law.

At the time this application was filed, the Commission was continuing to work towards implementing the new Mobile Virtual Network Operator (MVNO) framework through final offer arbitration and other decisions. These actions enabled eligible telecommunications service providers to obtain MVNO access and begin offering services under the framework. Expanded MVNO access was also expected to reduce reliance on wholesale roaming services, which was a key issue raised in the present application from Bell Mobility.

Review and vary applications require applicants to demonstrate substantial doubt as to the correctness of a Commission decision. They are assessed against a well-established test set out in Telecom Information Bulletin 2011-214.

Based on the record of this proceeding, the Commission finds that a substantial doubt as to the correctness of the Letter Decision has not been established. The Commission therefore denies the request to vary that decision.

Background

Regulatory background

1. In Telecom Regulatory Policy 2015-177 (the Policy), the Commission determined that it was necessary to mandate the provision of wholesale roaming services by Bell Mobility Inc. (Bell Mobility), Rogers Communications Canada Inc.,[1] and TELUS Communications Inc. (TELUS)[2] [collectively, the incumbents] to other Canadian wireless carriers, and to regulate the rates, terms, and conditions for such services.

2. During the process to finalize the tariffs for this newly mandated wholesale roaming service, parties raised concerns about how to prevent customers that purchase mandated wholesale roaming from making unauthorized use of the incumbents' networks to provide a mobile virtual network operator (MVNO) service.

3. In Telecom Decision 2017-56, the Commission addressed these concerns by directing that the incumbents' tariffs:

   - define "roaming service", which should also indicate that wholesale roaming service provides access to the incumbent's network on an incidental basis and not on a permanent basis; and

   - that a notice of suspension and termination be provided at least 30 days in advance when the wholesale roaming customer uses the network inappropriately.

4. However, the Commission declined the incumbents' request to include more restrictive language defining permanent roaming and setting a threshold as to how much roaming constitutes permanent roaming.

5. Instead, the Commission stated that, if disputes were to arise between the incumbents and their wholesale roaming customers with respect to whether roaming was surpassing an acceptable level, those parties could request that the Commission determine whether a wholesale roaming customer was making improper use of the service.

6. The Commission also stated that to make such a determination, it could consider, among other factors, whether a wholesale roaming customer has not taken commercially reasonable steps to

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[1] The original order named Rogers Communications Partnership, which ceased to exist on 1 January 2016. Rogers Communications Canada Inc. holds all of its business activities, including assets and liabilities.

[2] The original order named TELUS Communications Canada, which ceased to exist on 1 October 2017. TELUS Communications Inc. holds all of its business activities, including assets and liabilities.

limit roaming by its end-users on the incumbent's network to incidental levels that are within the scope of the services.

7. Accordingly, Bell Mobility's Access Services Tariff (the Tariff), as approved by the Commission,[3] stipulates that roaming must be incidental and not permanent, and that it is up to wholesale roaming customers to ensure that their end-users comply with this provision.

Disputes about the acceptable level of roaming

8. The Commission first addressed the ongoing dispute between Videotron Ltd. (Videotron) and Bell Mobility Inc. (Bell Mobility) regarding claims of permanent roaming by Videotron on Bell Mobility's network in Telecom Decision 2020-48. The decision was further to a Part 1 application from Videotron, in which the company submitted it had received a 30-day notice of suspension from Bell Mobility alleging a contravention of the Tariff related to permanent roaming.

9. In that decision, the Commission determined that Videotron had not complied with the Tariff in regard to permanent roaming, but that this resulted from technical issues; that Videotron had otherwise put in place reasonable measures to ensure that end-users were not permanently roaming and that there was no proof that Videotron was reselling wireless services through roaming on Bell Mobility's network.

10. As a result, the Commission directed Bell Mobility not to suspend or terminate the wholesale roaming services offered to Videotron. However, it put in place several measures to ensure that Videotron respected the Tariff going forward. In particular, the Commission:

    - directed Videotron to use the current minimum usage[4] threshold from which to start applying its test of whether users are roaming on Bell Mobility's network on a permanent, non-incidental basis (the Videotron test)[5] until the companies agree to a mutually acceptable threshold;

    - directed Videotron to confirm that the technical issues had been resolved or that a manual solution for issuing excessive roaming notification letters had been put in place;

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[3] In Telecom Order 2017-433, the Commission approved, on a final basis, the terms and conditions for the wholesale roaming services offered by the incumbents. In Telecom Order 2018-99, the Commission approved, with changes, on a final basis, the rates for the wholesale roaming offered by the incumbents.

[4] Videotron initiates tracking analyses when end-users exceed a given amount of monthly usage.

[5] With the Videotron test, Videotron checks its systems once a month and contacts end-users for whom, in each of two consecutive months, more than 50% of data or voice usage is generated on a host network, when compared with their overall data or voice usage on both the host network and the home network. The end-users are then notified that access to roaming may be interrupted should this consumption pattern continue.

- considered that, although many of the characteristics of the Videotron test seemed appropriate, the record of the proceeding was insufficient to determine whether the threshold used by Videotron was appropriate; and

- directed Videotron to report to Bell Mobility and the Commission, over a six-month period, a list of the International Mobile Subscriber Identities of the end-users who have received notices that they were permanently roaming.

11. Finally, the Commission explicitly stated its expectation that Bell Mobility and Videotron exchange information on a regular basis and discuss issues affecting the provision of services set out in the tariffs before issuing notices of suspension or submitting applications to the Commission.

The letter decision

12. On 25 May 2021, Bell Mobility filed an application in which it stated that Videotron had (i) violated the Tariff and Telecom Decision 2020-48 by employing a roaming usage threshold that enabled some of Videotron's end-users to permanently roam on Bell Mobility's network; and (ii) did not consistently apply the measures in the Videotron test regarding its end-users' roaming. Bell Mobility made several requests for relief in the form of orders and an administrative monetary penalty (AMP).

13. In response, on 25 May 2022, the Commission issued a letter decision (the Letter Decision) in which it denied Bell Mobility's application and encouraged parties to undertake good-faith negotiations on the matter and to avail themselves of staff-assisted mediation if needed.

14. In the Letter Decision, the Commission reiterated its expectation that the parties regularly exchange information, discuss matters thoroughly and exhaust all appropriate methods available to them in order to resolve disputes before submitting applications to the Commission. The Commission concluded that the issues in the dispute were appropriate for a negotiated resolution between the parties within the Commission's existing policy framework and concluded that, at that time, an application to the Commission was not the appropriate mechanism to resolve this dispute.

Review and vary application

15. The Commission received an application from Bell Mobility, dated 19 August 2022, requesting that the Commission review, rescind, and vary the Letter Decision, and issue several remedial orders.

16. Bell Mobility submitted that there was substantial doubt as to the correctness of the Letter Decision due to errors of law and of mixed fact and law.

17. Bell Mobility also requested relief in the form of remedial orders, including the imposition of an AMP on Videotron for violations of the Tariff, of Telecom Decision 2020-48, and of the *Telecommunications Act* (the Act).

18. The Commission received interventions from the Public Interest Advocacy Centre (PIAC); Quebecor Media Inc., on behalf of Videotron; and TELUS Communications Inc. (TELUS). Bell Mobility submitted a reply to the interventions.

Review and vary criteria

19. 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.

20. 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.

21. 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.

Issues

22. The Commission has identified two issues to be addressed in this decision:

    - Is there substantial doubt as to the correctness of the Letter Decision?
    - Should the Commission grant Bell Mobility's request for remedial orders?

Is there substantial doubt as to the correctness of the Letter Decision?

23. The Commission has identified four questions to consider in order to determine whether there is substantial doubt as to the correctness of the Letter Decision:

    - Does the Commission have a duty to take action in this dispute?

- Did the Commission allow Videotron to give itself an undue preference?
- Have the parties done all they can to resolve the dispute?
- Does the Letter Decision further the policy objectives of the Act?

Does the Commission have a duty to take action in this dispute?

Positions of parties

24. According to Bell Mobility, three of the claimed errors concern the Commission’s duty to act where the Commission:

    - erred in law under sections 24 and 25 of the Act by treating its mandatory duty to apply binding tariffs as discretionary;
    - erred in law and violated subsection 34(3) of the Act by contradicting its determination in the Policy to discontinue forbearance from Bell Mobility's wholesale roaming services; and
    - did not follow through on its commitment, in Telecom Decision 2017-56, to resolve disputes over improper use of the wholesale mobile wireless service.

25. Bell Mobility noted that, despite Videotron’s acknowledgement that some of the claimed violations had occurred, and despite the Commission’s acknowledgement that there had been permanent roaming, the solution proposed in the Letter Decision was for the parties to negotiate a resolution. Bell Mobility submitted that, by directing the companies to negotiate a resolution instead of enforcing compliance with the Tariff, the Commission breached the Tariff, as well as its legal duty under sections 24, 25, and 47 of the Act.

26. Bell Mobility further submitted that, even if the Commission’s inaction was not itself a breach of the Tariff, the Commission’s actions amounted to refraining from exercising its powers and duties under sections 24 and 25 of the Act. Bell Mobility added that forbearance in this case was contrary to the Policy and to subsection 34(3) of the Act, which prohibits the Commission from forbearing where it finds, as a question of fact, that to refrain would be likely to impair unduly the establishment or continuance of a competitive market for the service in question.

27. Finally, Bell Mobility submitted that the Commission did not follow through on its commitment in Telecom Decision 2017-56 to resolve disputes over what constitutes permanent roaming. Bell Mobility stated that its 25 May 2021 application was about such a dispute, since it concerned a situation in which Videotron end-users were engaging in conduct that the Commission had already determined to be permanent roaming.

28. Videotron submitted that the Tariff's definition of a roaming service provides flexibility in determining what constitutes roaming on an occasional and non-permanent basis. In Videotron's opinion, the issue is not about the violation of the Tariff, but the implementation of its provisions about permanent roaming.

29. Regarding forbearance, Videotron submitted that Bell Mobility's allegations are based on a misinterpretation of the Policy. Videotron stated that the Letter Decision is fully consistent with the existing regulatory framework and does not call into question the right to wholesale roaming access established in the Policy. In Videotron's opinion, there is no doubt that wholesale roaming is regulated by the Commission and that the Letter Decision is consistent with this regulatory framework, established in Telecom Decision 2017-56 and Telecom Decision 2020-48. Furthermore, according to Videotron, the Letter Decision is consistent with the Commission's approach to implementing other wireless conditions of service adopted pursuant to section 24 of the Act.

30. Videotron cited the Commission's statement in Telecom Decision 2020-48 that, although it had not specified a usage threshold, parties were not prevented from reaching an agreement on that question. In addition, Videotron noted that the Tariff's definition of roaming states that it is the responsibility of wholesale roaming customers to ensure that their end-users comply with the prohibition on permanent roaming.

31. Videotron also noted the Commission's statement, in Telecom Decision 2020-48, that it expected wholesale roaming licensees and their wholesale roaming customers to work together to determine what constitutes an acceptable level of incidental roaming. In Videotron's opinion, the Letter Decision is consistent with that determination.

32. Videotron responded that Bell Mobility erred in suggesting that the Commission had to act as there is a continual and intentional violation of the Tariff by Videotron, given that the Commission did not find that to be the case in the Letter Decision or in Telecom Decision 2020-48.

33. TELUS generally supported Bell Mobility's position. TELUS submitted that the Commission had both a statutory and common law duty to act, and that not doing so could be categorized as an error of law.

Commission's analysis

34. Section 47 of the Act requires the Commission to exercise its powers and perform its duties under the Act with a view to implementing the policy objectives of the Act. However, section 47 does not mandate that the Commission act in all cases. Subsection 48(1) provides that the Commission may inquire into or make a determination in respect of anything prohibited, required, or permitted to be done under Part III of the Act. As such, the Commission retains discretion over whether it wishes to inquire into issues arising under sections 24 and 25, which are contained within Part III of the Act.

35. In this instance, the Commission did not refrain from exercising its authority. The Commission had already exercised its authority, under sections 24 and 25, to approve just and reasonable rates, as well as terms and conditions for the wholesale roaming service. Like most wholesale tariffs, those rates, terms, and conditions set out the elements necessary to determine the basic parameters of the service. The Commission left several elements to be agreed upon by the carrier and its customer. This included the methodology for determining what constitutes permanent roaming.

36. However, the Commission supplemented the terms and conditions with a policy that set out broad criteria for determining what constitutes permanent roaming and a framework for resolving disputes about permanent roaming.

37. In Telecom Decision 2020-48, the Commission made clear that Bell Mobility and Videotron retained the ability to negotiate a methodology[6] and that it expected Bell Mobility and Videotron to work collaboratively before filing another application with the Commission on this matter. The Commission stated that this was in order to make the most efficient use of regulatory resources.[7] The Letter Decision confirmed that basic policy and encouraged the parties to demonstrate a good-faith effort to negotiate solutions before coming to the Commission to resolve their dispute.

38. Regarding Bell Mobility's assertion that the Commission did not follow its commitment, set out in Telecom Decision 2017-56, to resolve disputes over what constitutes permanent roaming, the Commission notes that, pursuant to section 60 of the Act, it has flexibility in determining what relief to grant in a given case and has the discretion to substitute relief different from the relief applied for. The Commission is of the view that, in Telecom Decision 2020-48, it sets clear expectations on the steps for parties to take to resolve their dispute in advance of seeking Commission intervention. The Letter Decision simply reiterated those expectations and set out the Commission's conclusion that the parties had not yet exhausted those steps.

39. In light of the above, the Commission finds that it did not err in law by not taking action in this dispute.

Did the Commission allow Videotron to give itself an undue preference?

Positions of parties

40. Bell Mobility stated that the Commission erred in law by allowing Videotron to give itself an undue preference and subject other wholesale customers, their end-users, and Bell Mobility to unjust discrimination contrary to subsection 27(2) of the Act.

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[6] Telecom Decision 2020-48, paragraph 53.

[7] *Ibid.*, paragraph 61.

41. Bell Mobility submitted that, in dismissing Bell Mobility's 25 May 2021 application, the Commission allowed Videotron to continue applying the Videotron test, which gave a unilateral exemption for end-users that Videotron considers to be low-use roamers, without Bell Mobility's consent. In doing so, according to Bell Mobility, the Commission allowed Videotron to unduly preference its own permanent roamers, and correspondingly subject end-users of Bell Mobility's other wholesale customers to an unreasonable disadvantage.

42. Bell Mobility stated that, in giving Videotron the right to grant itself a waiver from the Tariff's ban on permanent roaming, the Commission violated its general principle that regulated services must be offered under general tariffs, rather than special tariffs, to avoid undue preference and unjust discrimination.

43. Bell Mobility also stated that it suffered an unreasonable disadvantage because, if permanently roaming Videotron end-users had been suspended, they might have migrated to Videotron's competitors, including Bell Mobility.

44. Videotron submitted that, in Telecom Decision 2020-48, the Commission expressly recognized the usefulness of a threshold for identifying users who are potentially engaged in permanent roaming. According to Videotron, following Bell Mobility's reasoning, the very determination of a usage threshold would never be acceptable, because there will always be low-use roamers consuming below the specified threshold who will be exempt from the Tariff's ban on permanent roaming. In regard to whether the test gives Videotron an undue advantage, Videotron submitted that the information on the record does not allow a comparison between the Videotron test and the enforcement tools used by other wholesale customers; therefore, there is no evidence of a preference.

45. Regarding Bell Mobility's assertion that Videotron end-users might have migrated to competitors, including Bell Mobility if they had been suspended, Videotron submitted that this is completely theoretical, since there is no guarantee that suspended Videotron customers would have migrated to other service providers.

Commission's analysis

46. An application to review and vary is not the appropriate forum for introducing new positions related to the facts of an original application. While Bell Mobility framed this as a new issue by claiming that the Commission's inaction in the Letter Decision created or allowed an undue preference, undue preference must arise from the conduct of a carrier. To the extent Videotron's actions are claimed to confer an undue preference on Videotron, the facts upon which this allegation would be based existed on 25 May 2021.

47. While the above would be sufficient to dispose of Bell Mobility's application, given that parties have fully presented their views and that providing additional clarity may be helpful to the parties, the Commission has chosen to consider the substance of this allegation.

48. Under the Commission’s general approach to allegations of undue preference, the party making the allegation must first provide sufficient evidence to establish a *prima facie* case that a preference exists. The onus then shifts to the respondent party to establish that the preference is not undue, as required by subsection 27(4) of the Act.

49. Bell Mobility did not submit any evidence that would have established that a preference exists. To do so, Bell Mobility could have shown, for example, that the parameters of the Videotron test are more favourable to Videotron’s end-users than those of tests or mechanisms used by other service providers to screen permanent roaming. In that instance it could have been claimed that Videotron gave itself an undue advantage because its customers, who would be screened as permanent roamers under different existing tests, would otherwise be banned from roaming and migrate to other providers, such as Bell Mobility. Although the thresholds used by roaming customers to screen permanent roaming may differ, all wholesale customers do receive a standardized roaming service without preference, notably:

- all the incumbents’ mandated wholesale roaming tariffs prohibit permanent roaming and do not stipulate a specific threshold; and
- all the incumbents and their wholesale customers are free to agree upon a threshold for themselves and to enter into off-tariff agreements.

50. Bell Mobility did not submit evidence of controls taken by other wholesale customers (i.e., whether they use a usage threshold to monitor their end-users’ roaming use). It would be difficult for the Commission to find that Videotron gives itself an advantage without knowing how other providers apply their tariffs or if there are off-tariff agreements between Bell Mobility and its wholesale customers.

51. In light of the above, the Commission finds that Bell Mobility has not demonstrated that the Commission erred by allowing Videotron to give itself an undue preference and subject other wholesale customers, their end-users, and Bell Mobility to unjust discrimination contrary to subsection 27(2) of the Act.

Have the parties done all they can to resolve the dispute?

Positions of parties

52. Bell Mobility submitted that the Commission erred in law by justifying its refusal to exercise its jurisdiction based upon its conclusion that Bell Mobility had not done all it could to resolve its dispute.

53. Bell Mobility submitted that this conclusion was a further error of fact for two reasons:

- Bell Mobility attempted in good faith to negotiate an agreement on permanent roaming with Videotron; nonetheless, the negotiations were not successful.

- The Commission did not cite a reference, define, or otherwise explain what standard it applied in determining whether Bell Mobility had done all it could to resolve the dispute.

54. Bell Mobility stated that the negotiation efforts between itself and Videotron were irrelevant and did not excuse the Commission from the exercise of its duty to enforce the Tariff.

Commission's analysis

55. Regarding Bell Mobility's concern that the Commission did not cite a reference that would support rejecting an application based on whether a party had done all it could to resolve a dispute, the Commission notes that previously, in other contexts, it has communicated its expectation that parties make reasonable efforts to resolve their dispute before requesting Commission intervention.[8]

56. The Commission notes that it has the discretion to choose when to inquire into matters arising under the Act, and to grant relief where appropriate. The Commission further notes that in Telecom Decision 2020-48, it granted immediate relief to address Bell Mobility's concerns and to set out the steps that it expected the parties to undertake to resolve any remaining concerns before seeking further Commission intervention. In that decision, the Commission clearly stated its concerns about the efficient use of regulatory resources and its expectation that the parties would engage in discussions prior to seeking further Commission intervention. This type of expectation that parties would do all they could before coming to the Commission is consistent with that applied by the Commission in other contexts.[9]

57. The confidential version of Letter Decision addresses these expectations in greater detail. The Commission's conclusions on this point were based on the record provided by the parties.

58. Accordingly, the Commission considers that it did not err in law or fact by justifying its refusal to exercise its jurisdiction based upon its conclusion that Bell Mobility had not done all it could to resolve its dispute.

Does the Letter Decision further the policy objectives of the Act?

Positions of parties

59. Bell Mobility stated that the Commission erred in law in finding that the Letter Decision promotes the policy objectives set out in paragraphs 7(f) and (i) of the Act.

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[8] See, for example, Broadcasting and Telecom Information Bulletin 2019-184, paragraphs 6 and 7, which express the expectations that parties will have a) exhausted other means for resolving the dispute, and b) made reasonable efforts to resolve the dispute before applying for dispute resolution.

[9] Ibid.

60. Regarding the policy objective set out in paragraph 7(f) of the Act, namely, to foster reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective, Bell Mobility submitted that market forces are not engaged and not promoted where a tariff continues to govern the provision of services between parties, as in the current case.

61. Regarding the policy objective set out in paragraph 7(i) of the Act, namely, to contribute to the privacy of persons, Bell Mobility stated that there was no evidence raising any privacy concern on the record of the proceeding that led to the Letter Decision.

Commission's analysis

62. The Commission considers that, as stated in the Letter Decision, commercial negotiations between parties engage market forces within the Tariff and are consistent with that policy objective. The Commission therefore considers that the statement that the Letter Decision promotes the policy objective set out in paragraph 7(f) is not an error of law.

63. Regarding the policy objective set out in paragraph 7(i) of the Act, the Commission notes that there was no evidence raising any privacy concern on the record of the proceeding that led to the Letter Decision. The Commission therefore considers that the statement that the Letter Decision promotes that policy objective is an error of mixed fact and law, although this error was not material to the outcome of the matter.

Conclusion

64. The Commission finds that the record of this proceeding does not demonstrate that the Commission committed the errors identified in Bell Mobility's application.

65. Regarding the Commission's conclusion that Bell Mobility had not done all it could to resolve the dispute, the Commission finds that the statement that the Letter Decision promotes the policy objective set out in paragraph 7(i) of the Act is an error of mixed fact and law. However, the Commission considers that this error does not cast substantial doubt as to the correctness of the Letter Decision.

66. In examining this issue, the Commission has addressed the primary errors claimed by Bell Mobility. Other claimed errors are listed in the appendix to this decision. The appendix also includes the Commission's analysis of each claimed error and its finding, in each case, that it does not cast substantial doubt as to the correctness of the Letter Decision.

67. Accordingly, the Commission finds that there is no substantial doubt as to the correctness of the Letter Decision due to errors of law or errors of mixed fact and law.

Should the Commission grant Bell Mobility’s request for remedial orders?

Positions of parties

68. Bell Mobility requested that the Commission issue orders on a number of issues related to permanent roaming, notably with regard to changes to the Tariff and Commission policy. The company also requested that the Commission imposes an AMP on Videotron for violations of the Tariff, Telecom Decision 2020-48, and the Act.

69. TELUS stated that the Commission needs to make a finding on whether Videotron violated the Tariff, which opens numerous options in respect of a remedy. Telus also stated if the Commission were to find that Videotron did not violate the Tariff, there is no need to make decisions on the remedy, and if Videotron did violate the Tariff, the Commission can accept Bell Mobility’s proposed remedies or fashion its own remedy based on submissions from the parties.

Commission’s analysis

70. Given that the Commission finds that it made no errors of fact or law in the Letter Decision that would cast substantial doubt about its correctness, it is not necessary to evaluate how that decision should be changed, including whether remedial orders should be issued.

Conclusion

71. In light of all of the above, the Commission finds that there is no substantial doubt as to the correctness of the Letter Decision due to errors of law, or errors of mixed fact and law.

72. Consequently, the Commission denies the application, including the request for the review, rescission, and variance of the Letter Decision and the request for remedial orders.

73. Regarding the statement that the Letter Decision promotes the policy objective set out at paragraph 7(i) of the Act, the Commission finds that this is an error of mixed fact and law, but that it does not cast substantial doubt as to the correctness of the Letter Decision, and therefore does not change the outcome of this decision.

74. The Commission also reiterates its expectation that Bell Mobility and Videotron negotiate, with or without mediation by Commission staff, to determine the appropriate thresholds and mechanisms related to permanent roaming.

Secretary General

Appendix to Telecom Decision CRTC 2026-175

Commission's analysis of further errors that Bell Mobility Inc. stated the Commission committed in *Bell Mobility Inc. – Application for various orders regarding Videotron Ltd.'s use of Bell Mobility's wholesale roaming service* (the Letter Decision)

1. The Commission erred in law and fact when it (i) cited Telecom Decision 2017-56 in support of the proposition that Bell Mobility Inc. (Bell Mobility) and Videotron Ltd. (Videotron) should agree on the measurement of permanent roaming, and (ii) claimed that Telecom Decision 2020-48 continued that approach

The reference in the Letter Decision to Telecom Decision 2017-56 was not a direct quote. It was meant to illustrate that carriers would likely need to exchange information and data regarding thresholds and users' roaming as part of their operational requirements in the implementation of the relevant tariff. Telecom Decision 2017-56 would apply to all parties to that proceeding, including Bell Mobility and Videotron.

Where the Letter Decision states that the Commission did not alter this approach in Telecom Decision 2020-40, the Commission was reaffirming that, while Telecom Decision 2017-56 did not set out a specific threshold in the tariffs, it did not prohibit parties from agreeing on a threshold among themselves. The approach relied on parties determining the proper method to determine what constituted permanent roaming.

The Commission considers that Bell Mobility has not established that there is an error of mixed fact and law in the citing of precedents in the Letter Decision.

2. The Commission erred in law and fact by justifying its refusal to exercise its jurisdiction by treating the dispute as a commercial dispute rather than a tariff violation

As set out in this decision, the Commission finds that it did not refuse to exercise its jurisdiction; in fact, it gave parties clear instructions on how to resolve their dispute.

3. The Commission erred in law and violated its own guidelines by suggesting the parties use the Commission's staff-assisted mediation process

In Telecom Decision 2017-56 the Commission noted that it would be inefficient and counterproductive for it to set a threshold for permanent roaming. Parties would be allowed to determine that amongst themselves and only seek a Commission determination if they could not do so. Telecom Decision 2020-48 confirmed this position. The fact that a threshold is not set out in the tariff does not mean that a threshold should not be used. Rather, the Commission's guidelines are meant to provide parties with more flexibility to determine what constitutes permanent roaming and how to measure whether end-users are permanently roaming.

The Letter Decision and its recommendations were consistent with that policy, and the Commission considers that the resolution of the dispute between Bell Mobility and Videotron does not require the establishment of a new policy or a change to an existing policy.[10]

Accordingly, the Commission finds that it did not err in law or violate its own guidelines by suggesting the parties use the Commission's staff-assisted mediation process.

4. The Commission treated its expectation as binding without an evidentiary basis

The Commission considers that it did not treat its expectation as binding. The word "expectation" is set in bold typeface in the Letter Decision only for emphasis; it is not an indication of the force of law.

The Commission's statement concerning its expectation in the Letter Decision is a reiteration of its statement, in Telecom Decision 2020-48, that it expected Bell Mobility and Videotron to exchange information on a regular basis and discuss issues affecting the provision of services set out in the tariff before issuing notices of suspension or submitting applications to the Commission.[11]

The Commission does not find that the reiteration of that expectation is an error of law.

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[10] Broadcasting and Telecom Information Bulletin 2019-184 sets out that a dispute that does not require the establishment of a new policy or a change to an existing policy lends itself to the Commission's dispute resolution processes.

[11] Telecom Decision 2020-48, paragraph 61.

Related documents

- *Videotron Ltd. (Videotron) – Application for the Commission to order Bell Canada, on behalf of Bell Mobility Inc., not to suspend wholesale roaming services offered to Videotron – Final relief*, Telecom Decision CRTC 2020-48, 5 February 2020

- *Practices and procedures for dispute resolution*, Broadcasting and Telecom Information Bulletin CRTC 2019-184, 29 May 2019

- *Wholesale mobile wireless roaming service tariffs – Final rates*, Telecom Order CRTC 2018-99, 22 March 2018

- *Follow-up to Telecom Decision 2017-56: Wholesale mobile wireless roaming service tariffs – Final terms and conditions*, Telecom Decision CRTC 2017-433, 6 December 2017

- *Wholesale mobile wireless roaming service tariffs – Final terms and conditions*, Telecom Decision CRTC 2017-56, 1 March 2017

- *Regulatory framework for wholesale mobile wireless services*, Telecom Regulatory Policy CRTC 2015-177, 5 May 2015

- *Revised guidelines for review and vary applications*, Telecom Information Bulletin CRTC 2011-214, 25 March 2011