



Telecom Public Notice CRTC 2007-21

Ottawa, 19 December 2007

Regulatory framework for local wireline service promotions of incumbent local exchange service

Reference: 8663-C12-200718604

Introduction

1. Telecom Decision 2006-15, as amended by the Governor in Council's *Order Varying Telecom Decision CRTC 2006-15*, P.C. 2007-532, 4 April 2007 (modified Telecom Decision 2006-15), removed the competitive safeguards established for incumbent local exchange carrier (ILEC) promotions involving local wireline services.¹ Specifically, modified Telecom Decision 2006-15 reads as follows:

The Commission removes the existing competitive safeguards for promotions, as defined in Telecom Decision CRTC 2005-25, *Promotions of local wireline services*, removes the local winback rule as set out in Telecom Decision CRTC 2005-28, *Regulatory framework for voice communication services using Internet Protocol*, as amended by Telecom Decision CRTC 2005-28-1 and confirmed by Telecom Decision CRTC 2006-53, permits the *ex parte* filing of tariff applications for promotions and permits the waiving of service charges for residential local winbacks.²

2. In the Regulatory Impact Analysis Statement of the Governor in Council's order, which supported these determinations, the Governor in Council stated that, in light of the state of competition in the Canadian telecommunications market, such restrictions were no longer required. The Governor in Council further stated that the elimination of restrictions on winbacks and other promotions should enable more innovative pricing and enhance rivalry among competitor companies, thereby potentially reducing overall costs for consumers.
3. In *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006 (the Policy Direction), the Governor in Council required the Commission to, among other things,
 - rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives (the policy objectives) set out in section 7 of the *Telecommunications Act* (the Act), and

¹ In Telecom Decision 2005-25, the Commission had established the following competitive safeguards with respect to local wireline services: (i) promotions must be available and equally promoted across one or more entire rate bands; (ii) promotions must not be limited to customers of competitors; (iii) promotions must pass an imputation test for the service, including the impacts of the promotion; (iv) the combined enrolment and benefit period of a promotion cannot exceed six consecutive months; (v) there must be no lock-in requirement beyond the promotion period; and (vi) there must be a minimum six-month waiting period after the expiry of the most recent promotion before offering a new promotion involving the same local wireline service.

² See paragraph 483 of modified Telecom Decision 2006-15.

- when relying on regulation, use measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives.
4. The Governor in Council also stated that the Commission, in order to enable it to act in a more efficient, informed, and timely manner, should adopt practices such as using tariff approval mechanisms that are as minimally intrusive and as minimally onerous as possible, and should continue to explore and implement new approaches for streamlining its processes.
 5. The Commission notes that, under section 34 of the Act, it may make a determination to refrain, in whole or in part, and conditionally or unconditionally, from the exercise of any power or the performance of any duty under sections 24, 25, 27, 29, and 31 of the Act in relation to a telecommunications service or class of services provided by a Canadian carrier, where
 - 1) the Commission finds as a question of fact that to refrain would be consistent with the Canadian policy objectives; or
 - 2) the Commission finds as a question of fact that a telecommunications service or class of services provided by a Canadian carrier is or will be subject to competition sufficient to protect the interests of users.
 6. The Act further states that the Commission shall not make a determination to refrain under this section in relation to a telecommunications service or class of services if the Commission finds as a question of fact that to refrain would be likely to impair unduly the establishment or continuance of a competitive market for that service or class of services.
 7. Since the issuance of the Governor in Council's order which, among other things, removed the competitive safeguards established for ILEC promotions involving wireline services, the Commission has received and reviewed a large number of ILEC applications proposing promotions. The vast majority of these applications received interim approval within 10 business days, consistent with the timelines initially set out in Telecom Circular 2005-6 and finalized in Telecom Circular 2005-9.

Call for comments

8. In light of the above, and in consideration of the Policy Direction and the determinations set out in modified Telecom Decision 2006-15, the Commission invites parties to comment on the appropriateness of forbearing in whole or in part, either conditionally or unconditionally, from the regulation of promotions for residential and business local wireline services.
9. In addressing the above issue, parties are to propose criteria that the Commission could use to establish which service offerings would be considered legitimate promotional service offerings, and therefore, forborne from regulation.

10. In proposing criteria to be used to identify legitimate promotional service offerings, the following issues should be addressed:
 - Given that legitimate promotional service offerings are limited in duration, what duration should be considered appropriate? Comments should address the elements of enrolment period (the length of time the customer could sign up for the promotion) and benefit period (the length of time that the benefit is received) associated with promotions.
 - Under what circumstances should a new promotion be considered a continuation of a previous promotion, for example, due to such factors as 1) a very short interval of time between the same offering, and 2) minor variations between offerings?

Procedure

11. Bell Aliant Regional Communications, Limited Partnership, Bell Canada, MTS Allstream Inc., Saskatchewan Telecommunications, TELUS Communications Company (TCC), and Télébec, Limited Partnership (Télébec) are made parties to this proceeding.
12. Other persons interested in participating in this proceeding (including receiving copies of all submissions) must notify the Commission of their intention to do so by filling out the online form, or by writing to the Secretary General, CRTC, Ottawa, Ontario, K1A 0N2, or by faxing at: 819-994-0218 by **18 January 2008** (the registration date). Parties are to provide their email address, where available. If parties do not have access to the Internet, they are to indicate in their notice whether they wish to receive disk versions of hard-copy filings.
13. The Commission will post on its website, as soon as possible after the registration date, a complete list of interested parties and their mailing addresses (including their email addresses, if available), identifying those parties who wish to receive disk versions.
14. Any person who wishes merely to file written comments in this proceeding, without receiving copies of the various submissions, may do so by writing to the Commission by **4 February 2008** at the address or fax number noted above, or by filling out the online form.
15. All parties may file with the Commission, serving a copy on all other parties, comments with regard to the above-noted issues by **4 February 2008**.
16. All parties may file with the Commission, serving a copy on all other parties, reply comments by **19 February 2008**.
17. The Commission expects to issue a decision on the issues raised in this Public Notice within 120 days after the record closes.
18. The Commission will not formally acknowledge comments. It will, however, fully consider all comments and they will form part of the public record of the proceeding.

19. Where a document is to be filed or served by a specific date, the document must be actually received, not merely sent, by that date.
20. Parties may file their submissions electronically or on paper. Submissions longer than five pages should include a summary.
21. Electronic submissions should be in HTML format. As an alternative, those making submissions may use "Microsoft Word" for text and "Microsoft Excel" for spreadsheets.
22. Each paragraph of all submissions should be numbered. In addition, the line ***End of document*** should be entered following the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
23. The Commission also encourages parties to monitor the record of this proceeding (and/or the Commission's website) for additional information that they may find useful when preparing their submissions.

Important notice

24. Note that all information that you provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, email or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes your personal information, such as your full name, email address, postal/street address, telephone and facsimile number(s), and any other personal information you provide.
25. The personal information you 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.
26. Documents received electronically or otherwise will be posted on the Commission's website in their entirety exactly as you send them, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
27. Please note that the information you provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the webpage of this particular public process. As a result, a general search of our website with the help of either our own search engine or a third-party search engine will not provide access to the information which was provided as part of this public process.

Location of CRTC offices

28. Submissions may be examined or will be made available promptly upon request at the Commission offices during normal business hours.

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Secretary General

Related documents

- *Reconsideration of Regulatory framework for voice communications services using Internet Protocol*, Telecom Decision CRTC 2006-53, 1 September 2006
- *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006, as amended by the Governor in Council's *Order Varying Telecom Decision CRTC 2006-15*, P.C. 2007-532, 4 April 2007
- *Finalization of the streamlined process for retail tariff filings*, Telecom Circular CRTC 2005-9, 1 November 2005
- *Regulatory framework for voice communication services using Internet Protocol*, Telecom Decision CRTC 2005-28, 12 May 2005, as amended by Telecom Decision CRTC 2005-28-1, 30 June 2005
- *Promotions of local wireline services*, Telecom Decision CRTC 2005-25, 27 April 2005
- *Introduction of a streamlined process for retail tariff filings*, Telecom Circular CRTC 2005-6, 25 April 2005

This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>