



Telecom Decision CRTC 2008-10

Ottawa, 31 January 2008

The relevant product market for Centrex and Enhanced Exchange Wide Dial services for the purposes of forbearance from regulation

Reference: 8640-C12-200711433

In this Decision, the Commission determines that for local forbearance purposes Centrex services form part of the same relevant market as business local exchange services. As a consequence, where the Commission has in previous decisions forborne from the regulation of business local exchange services but excluded Centrex services from the list of forborne services, pending the outcome of this proceeding, these Centrex services will now also be forborne from regulation.

Introduction

1. In Telecom Public Notice 2007-14, the Commission initiated a proceeding to consider whether Centrex and Enhanced Exchange Wide Dial services (collectively, Centrex services) should be excluded from the business local exchange services product market for the purposes of local forbearance. In the event that Centrex services were found to be in a different product market, the Commission would consider what the relevant geographic market should be for Centrex services, and how the competitor presence test established for business local exchange services for local forbearance purposes should be modified, if at all, when applied to Centrex services.
2. The Commission received comments from Bell Aliant Regional Communications, Limited Partnership, Bell Canada, and Télébec, Limited Partnership (collectively, Bell Canada et al.); Bragg Communications Inc., carrying on business as EastLink (EastLink); MTS Allstream Inc. (MTS Allstream); Saskatchewan Telecommunications (SaskTel); and TELUS Communications Company (TCC).
3. The record of this proceeding closed on 16 October 2007 with the filing of reply comments. The public record of this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
4. The Commission considers that the threshold issue to be addressed in its determination is whether Centrex services and business local exchange services are in the same relevant product market.

Positions of parties

5. Bell Canada et al., SaskTel, and TCC were of the view that Centrex services were interchangeable with single-line and multi-line business local exchange services. Bell Canada et al. submitted that, from a supply perspective, private branch exchange-based (PBX) solutions were typically marketed as alternatives to Centrex services. Bell Canada et al. noted that Primus Telecommunications Canada Inc.'s website compared Centrex and hosted PBX service features, and advocated that business customers should choose the latter.

6. SaskTel and TCC submitted that Centrex services shared many functions with single-line, multi-line, PBX, and other business local exchange services, as evidenced by functions provided by a multitude of services such as Direct-in-Dial, Microlink, Megalink, and hosted Internet Protocol based services.
7. MTS Allstream and EastLink submitted that Centrex services were not part of the same relevant product market as other business local exchange services. In this regard, MTS Allstream submitted that the incumbent local exchange carriers (ILECs), in particular Bell Canada,¹ had increased Centrex rates in a significant manner over the past few years without losing any meaningful market share² for large and very large business customers.
8. MTS Allstream and EastLink submitted that Centrex services were physically and technically different from other business telephony services, as they were designed to meet the unique service requirements of large and very large business customers operating in several different geographic locations and exchanges.
9. MTS Allstream considered that the fact that the ILECs' Centrex platforms did not interwork with competing service platforms was a significant barrier to competition for large and very large business customers that typically had thousands of Centrex lines. EastLink submitted that, as a result, the cost for a customer to migrate from an ILEC-provided Centrex service was a barrier to competitive entry.
10. EastLink submitted that it would be inappropriate for the Commission to grant forbearance from the regulation of Centrex services in one exchange when those services would be provided across multiple exchanges. EastLink argued that if a competitor could not provide the full suite of Centrex services sought by a customer operating in numerous exchanges, and sometimes outside the boundary of a competitor's operating territory, then the market for Centrex services was not competitive and should not be forborne from regulation. EastLink also submitted that in any situation where Centrex services were forborne from regulation in some exchanges and not others, an ILEC was, in effect, not price-regulated in any exchange.
11. In reply, Bell Canada et al. submitted that from July 1997 to August 2007, the rate increases alluded to by MTS Allstream were applied to (i) Centrex services that had been destandardized;³ (ii) similar non-Centrex service counterparts to maintain relative rate differences;⁴ or (iii) Centrex services that had not experienced rate increases in a significant amount of time.⁵ Bell Canada et al. noted with regard to (iii) that the rate increases approved by the Commission were below the cumulative change in the rate of inflation over that period.

¹ MTS Allstream noted that Bell Canada's rates for Centrex Voice Locals had increased by more than 13 percent in just over five years.

² Based on data from *CRTC Telecommunications Monitoring Report: Status of Competition in Canadian Telecommunications Markets*, July 2006; *Report to the Governor in Council: Status of Competition in Canadian Telecommunications Markets*, October 2005, November 2004 and November 2003

³ e.g. Bell Canada Centrex Data Locals and Message Rate Individual Service

⁴ e.g. Bell Canada Local Link Package and related services

⁵ e.g. Bell Canada Centrex Voice Locals

12. Bell Canada et al. submitted that the partial forbearance scenario described by EastLink would not create a pricing disadvantage for EastLink. Bell Canada et al. further submitted that in exchanges that remained regulated, they would continue to charge the Commission-approved rates, while in exchanges that were forborne from regulation, rates would be determined by competitive conditions.

Commission's analysis and determinations

13. The Commission considers that if Centrex services and business local exchange services are found to be substitutes, they would be in the same relevant product market.
14. The Commission notes that direct evidence of substitutability would include statistical evidence demonstrating a buyer's willingness to switch to another business local exchange service, or anecdotal evidence of switching behaviour in response to a significant and non-transitory change in the rates charged for Centrex services.
15. The Commission is not persuaded that the data cited by MTS Allstream demonstrates that market share was not affected by the Centrex rate increases. The Commission notes that the data relied on by MTS Allstream did not properly consider ILECs operating out-of-territory as competitors to the in-territory ILEC. Accordingly, the Commission considers that any market share lost by an ILEC to out-of-territory ILECs would not be reflected in the ILEC market share data relied upon by MTS Allstream.
16. In light of the above, the Commission considers that MTS Allstream has not provided conclusive direct evidence that Centrex services are in a different relevant product market than other business local exchange services.
17. The Commission considers that if direct evidence is unavailable or inconclusive, it is appropriate to evaluate indirect evidence of substitutability. This involves examining the evidence from both a buyer's (demand conditions) and a supplier's (supply conditions) perspective regarding the characteristics, intended use, and rates for Centrex services.

a) Demand conditions

18. In assessing demand conditions, the Commission will consider the ability and willingness of customers to switch between Centrex services and other business local exchange services.
19. In the Commission's view, a customer would only consider switching between Centrex services and other business local exchange services if the services were functionally similar and had comparable rates, and the switching costs were reasonable.
20. The Commission notes that there is evidence on the record of this proceeding indicating that a number of business local exchange services can be configured to offer the same features and functionality that, according to MTS Allstream, distinguish Centrex from other business local exchange services. For example, as an alternative to Centrex services, a customer operating in multiple exchanges could use a competitor's Primary Rate Interface (PRI)⁶ and interexchange channel services combined with intelligent terminal equipment, such as PBX. Such an arrangement could provide a highly customizable service with access to the public switched

⁶ Sometimes referred to as Integrated Services Digital Network PRI or Megalink Service

telephone network (PSTN), connections between offices in different exchanges, unique dialing plans between employees without accessing the PSTN, and a number of additional features and options that could be added and tailored for use by some employees or some locations, but not others.

21. The Commission notes that for a smaller customer located in a single exchange, business Individual Line Service (ILS) and optional features, or PRI service with intelligent terminal equipment such as a small customer-owned PBX or a key system, can be configured to offer many of the same features and functionality offered by Centrex services.
22. The Commission considers, therefore, that from the customer's perspective, the features and functionality of Centrex services can be replicated by a number of business local exchange services.
23. With regard to pricing, the Commission notes that customer-owned intelligent end-user equipment requires an upfront capital investment, ongoing maintenance, and upkeep. With Centrex services, hosted PBX services, or business ILS with optional features, there are higher monthly payments, little to no upfront investment, and little to no maintenance and upkeep issues. The Commission notes that the record of this proceeding includes several examples of businesses that chose other business local exchange services over Centrex services to satisfy their telecommunications requirements. From this, the Commission concludes that Centrex services have rates that are competitive with other business local exchange services.
24. With regard to switching costs, the Commission notes that in Telecom Decision 2007-80, it acknowledged that migrations of large and very large Centrex service customers to a competitor could be complex. The Commission also noted in that Decision that those migrations were likely to require a transition period, which could result in the customer paying higher rates per line due to consumption volume decreases or higher monthly uncontracted rates after that customer's minimum contract period expired. The Commission considered, however, that the record of that proceeding did not demonstrate that those switching costs prevented customers from changing service providers. The Commission considers that no evidence has been presented in this proceeding that would persuade it that switching costs prevent customers from changing service providers.
25. In light of the above, the Commission considers that, from a demand perspective, buyers can, and are willing to, switch between business local exchange services and Centrex services.

b) Supply conditions

26. In assessing supply conditions, the Commission will consider the ability of competing firms to offer alternative business local exchange services to Centrex services.
27. The Commission notes that the record of this proceeding includes evidence of competitors offering services as alternatives to Centrex services in order to satisfy customers' telecommunications needs.
28. The Commission considers that in order to meet a business customer's request for Centrex or Centrex-like services, a service provider will use any available business local exchange services, including any necessary interexchange services, to link business local exchange services located in different exchanges. These services could include the use of its own

services and facilities, several of which are described above, and/or leased facilities and services from one or more service providers. The Commission is of the view that, because service providers have numerous options in responding to Centrex or Centrex-like service requests for service either in one or in several exchanges, the barriers to providing the requested services are relatively low.

29. Accordingly, the Commission considers that most local exchange carriers that provide business local exchange services are capable of providing alternatives that are, from a supply perspective, substitutes for Centrex services.

c) Other concerns

30. The Commission considers it appropriate to grant forbearance from the regulation of Centrex services on an exchange basis. The Commission is not persuaded that granting forbearance from the regulation of Centrex services in one exchange, when Centrex service can be provided to a customer in multiple exchanges, would unduly hinder competition. The Commission considers that, while the ILECs will be able to set rates for their Centrex services in forborne exchanges according to market conditions, Centrex services in regulated exchanges should continue to be tariffed at compensatory rates.

Conclusion

31. The Commission considers that the evidence in this proceeding indicates that Centrex services and business local exchange services are substitutes and are in the same relevant market. Accordingly, the Commission determines that Centrex services should not be excluded from the business local exchange services product market for local forbearance purposes.
32. As a result of this determination, the Commission considers that the other issues identified in Telecom Public Notice 2007-14 do not need to be considered.
33. The Commission notes that in the applications for forbearance from the regulation of business local exchange services received to date, the ILECs requested that Centrex services form part of the services that are granted forbearance. The Commission notes, however, that in the associated decisions, forbearance was granted for business local exchange services, excluding Centrex services, pending the outcome of the Telecom Public Notice 2007-14 proceeding.
34. As a result of this Decision, the Commission considers that where the ILECs have demonstrated that they meet the criteria for forbearance from the regulation of business local exchange services, Centrex services should also be forborne from regulation to the extent specified in 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). A list of these services and their related tariffs are included in the original business local forbearance decisions.
35. Pursuant to subsection 34(1) of the *Telecommunications Act* (the Act), the Commission finds as a question of fact that a determination to forbear, to the extent specified in modified Telecom Decision 2006-15, from the regulation of Centrex services and future Centrex services that fall within the definition of local exchange services set out in Telecom Public Notice 2005-2 as they pertain to business customers only, in the exchanges where the

Commission has already forborne in earlier decisions from the regulation of business local exchange services, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.

36. Pursuant to subsection 34(2) of the Act, the Commission finds as a question of fact that these Centrex services are subject to a level of competition in these exchanges sufficient to protect the interests of users of these services.
37. Pursuant to subsection 34(3) of the Act, the Commission finds as a question of fact that a determination to forbear, to the extent specified in modified Telecom Decision 2006-15, from regulating these Centrex services in these exchanges would be unlikely to impair unduly the continuance of a competitive market for these services.
38. In light of the above, the Commission **approves** previous applications for forbearance from the regulation of Centrex services and future Centrex services that fall within the definition of local exchange services set out in Telecom Public Notice 2005-2, as they pertain to business customers only, in the exchanges where the Commission has already forborne in earlier decisions from the regulation of business local exchange services, subject to the powers and duties that the Commission has retained as set out in modified Telecom Decision 2006-15. This determination takes effect as of the date of this Decision. The Commission directs the ILECs to file for Commission approval revised tariff pages for Centrex services within 30 days of the date of this Decision.

Secretary General

Related documents

- *MTS Allstream Inc. – Part VII application regarding the incumbent local exchange carriers' Centrex and Enhanced Exchange Wide Dial services*, Telecom Decision CRTC 2007-80, 6 September 2007
- *Examination of the relevant market for Centrex and Enhanced Exchange Wide Dial services for the purposes of forbearance from the regulation of local exchange services*, Telecom Public Notice CRTC 2007-14, 17 August 2007
- *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006, as amended by Order in Council P.C. 2007-532, 4 April 2007
- *Forbearance from regulation of local exchange services*, Telecom Public Notice CRTC 2005-2, 28 April 2005

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